

**SECOND PUBLIC HEARING DRAFT**

# **Town of Barrington Zoning Ordinance**

**Prepared by the  
Barrington Planning Board**

With assistance from  
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Durham, New Hampshire

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**EDITOR'S NOTE**

The provisions of this Zoning Ordinance are numbered in a hierarchical format that is referred to throughout the text in the following manner.

**Article**      ARTICLE 1 - HEADING

**Section**     1.1 Heading

**Subsection**     1.1.1 - Heading

**Paragraph**         1) No Heading

**Subparagraph**             a) No Heading

## **ARTICLE 1 - GENERAL PROVISIONS**

### **1.1 Title**

This Ordinance shall be known and cited as the “Town of Barrington Zoning Ordinance” and may be referred to herein as “this Ordinance”.

### **1.2 Effective Date of Ordinance**

The effective date of this Ordinance is March \_\_\_\_, 2005 the date of adoption by the Barrington Town Meeting.

### **1.3 Applicability**

In general, the purpose of this Ordinance is to provide for the safe, harmonious and manageable development of the Town of Barrington. More specifically, this Ordinance is intended to promote the health, safety, welfare and prosperity of the community; to safeguard natural resources such as ponds, lakes, rivers, streams, wetlands, forests and aquifers; to preserve the essential character of the community and protect both property values and the quality of life in Barrington, and; to foster the reasonable and judicious use of land for commercial and industrial purposes compatible with the community’s interests. Furthermore, these regulations are intended to promote energy efficient patterns of development and the use of other renewable forms of energy and energy conservation.

### **1.4 Authority and Severability**

This Ordinance is adopted pursuant the authority conferred by New Hampshire State Statutes (RSAs 674:16-21 as amended), and any other applicable provisions of state law. A determination by a court that any section or part of this Ordinance is unenforceable for any reason shall not invalidate nor have any effect on the enforcement of any other section or part.

### **1.5 Interpretation**

The provisions of this Ordinance shall be interpreted as minimum requirements adopted for the promotion of the public health, safety and welfare and other purposes noted above. Many words and phrases in this Ordinance are assigned specific meanings that are defined in Article 16 entitled Definitions. All other words or phrases contained in this Ordinance that are not specifically defined as noted should be given their common and generally accepted meaning.

### **1.6 History**

This Ordinance was adopted by the Annual Town Meeting of Barrington held on March \_\_\_\_, 2005. This Ordinance is a new ordinance and it replaces the “Town of Barrington Zoning Ordinance of March 11, 1997”, as amended.

## **1.7 Consistency with the Master Plan**

This Ordinance is intended to implement, to the fullest extent possible, the Vision, Strategic Objectives, and Implementation Strategy of the Strategic Master Plan Update, Barrington, New Hampshire, which was adopted by the Barrington Planning Board on March 11, 2004, along with all of the supplemental planning studies that were adopted by reference. This document is hereafter referred to as the "Master Plan."

# **ARTICLE 2 - ZONING DISTRICTS**

## **2.1 Establishment of Zoning Districts**

For the purposes of this Ordinance the Town of Barrington is divided into four (4) base zoning districts. All of the area within the municipal boundaries of the town is considered to be located within one of these four districts as identified on the Official Zoning Map. These districts shall be referred to by the following designations:

### **Base Zoning Districts**

General Residential (GR)  
Neighborhood Residential (NR)  
Village District (VD)  
Regional Commercial (RC)

In addition to these base districts, this Ordinance also establishes the provisions of a series of overlay zoning districts that function in concert with the base districts. These overlay districts may or may not occur within all parts of the town and are intended to regulate the use of specific features or characteristics of the community. Where the extent of an overlay district coincides with the extent of a base district the regulations for both districts shall be applied. These districts shall be referred to by the following designations:

### **Overlay Zoning Districts**

Wetlands Protection District Overlay (WDO)  
Shoreland Protection District Overlay (SDO)  
Floodplain Management District Overlay (FDO)  
Groundwater Protection District Overlay (GDO)  
Wireless Communications Facilities Overlay (WCO)  
Highway Commercial District Overlay (HCO)

### **2.1.1 Official Zoning Map**

The location and boundaries of the zoning districts are hereby established as shown on a map titled "Zoning Map of the Town of Barrington, New Hampshire," (hereafter referred to as the Zoning Map) dated \_\_\_\_\_, 2005, and as amended, which is hereby declared to be a part of this Ordinance. The Zoning Map shall use, as a base map for displaying zoning district boundaries, the most current property maps available for the town. The Zoning Map, along with the

Ordinance, shall be kept on file, and made available to the public, at the office of the Town Clerk. A reproduction of this map is contained in the appendix of this Ordinance.

### **2.1.2 Interpretation of District Boundaries**

Where any uncertainty exists with respect to the boundary of any district as shown on the zoning map, the following rules shall apply:

- 1) Where a boundary is indicated as being a street, railroad, river, or other body of water, it shall be construed to be the center line or middle thereof, or where such boundary approximates a town boundary, then to the limits of the town boundary.
- 2) Where a boundary is indicated as following approximately or parallel to a street, railroad, river or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the zoning map. If no dimension is given, such distance shall be determined by the use of the scale shown on the zoning map.
- 3) Where a dimensioned boundary coincides, within ten (10) feet or less, with a lot line, the boundary shall be construed to be the lot line.
- 4) Where a boundary is indicated as intersecting the center line of a street, railroad, river or other body of water, and unless it is otherwise indicated, it shall be construed to intersect at right angles to such center line or in the case of a curved center line, to the tangent to the curve at the point of intersection.
- 5) The abbreviation "PL" means property line as shown on the town tax maps as in effect on the effective date of this article.
- 6) The abbreviation "CL" means "center line," and "CI" means "center of intersection.
- 7) When a lot is split by a zoning district boundary, the regulations of this Ordinance applicable to the larger part by area of such lot may, at the option of the owner, be deemed to govern the smaller part of the lot beyond. Uses permitted within the smaller part of the lot, and that are not permitted on the larger part of the lot, shall require a conditional use permit from the Planning Board, as specified in Section 3.4 of this Ordinance, to establish such a use on the larger portion of the lot where it is otherwise not permitted.

## **2.2 Statements of Purpose - Base Zoning Districts**

This section of the Ordinance provides individual Statements of Purpose for each of the base zoning districts. These statements are intended to provide insight into the underlying intent for establishing each district with regard to appropriate and suitable types of development that may not be perceived solely from the list of permitted uses and required dimensional standards. These Statements are based primarily on

information presented in the town's master plan, as well as other community planning documents and forums.

From an overall perspective, the zoning districts were intended to promote a hierarchy of development opportunities that offer a variety of development densities, for both residential and non-residential development, in order to achieve a balanced approach to future growth that is sensitive to property rights as well as the future land use goals of the community, as stated in the 2004 Master Plan.

### **2.2.1 General Residential (GR)**

The General Residential District is intended to provide opportunities for low density residential development in traditional subdivisions although cluster Conservation Subdivisions are also permitted as an option to encourage the preservation of natural resources and open space. The regulations for this district are intended to promote a continuation of the historical land development patterns that were identified in the 2004 Master Plan. The regulations for this district are also intended to allow for small-scale business uses or establishments, only if such uses are operated in conjunction with residential uses and developed in compliance with specific standards specified in this Ordinance.

### **2.2.2 Neighborhood Residential (NR)**

The Neighborhood Residential District is intended to promote medium density residential development in the central portion of the town, which is in relatively close proximity to municipal and school services. The regulations have been fashioned to provide incentives for developing larger tracts of land in a way that promotes efficient use of the land and creates adequately sized parcels of open space that can be used for public recreation and/or conservation purposes. One of the primary goals for open space in this district, as identified in the 2004 Master Plan, is to create trail linkages to public and commercial activities in the adjoining Village District, as well as other surrounding districts. The regulations for this district are also intended to allow for small-scale business uses or establishments, only if such uses are operated in conjunction with residential uses and developed in compliance with specific standards specified in this Ordinance.

### **2.2.3 Village District (VD)**

The Village District is intended to promote mixed use development at higher densities in order to provide a centralized location for regular community interaction as well as convenient opportunities for the purchase of goods and services by town residents. The regulations are intended to allow opportunities for creating apartments above commercial establishments and multifamily senior housing developments that would be in close proximity to municipal and school facilities and provide a base of consumer support for small-scale commercial establishments in the district. The site design and landscaping standards applied to development in this district should reflect the guidelines recommended in the 2004 Master Plan as well as other land use regulations adopted by the town. Development in this district should promote an environment that facilitates

pedestrian access both within the VD district as well as into adjoining zoning districts.

#### **2.2.4 Regional Commercial (RC)**

The Regional Commercial District is intended to establish an environment along the Route 125 and Route 4 corridors that promotes commercial and industrial land uses that conform to the development goals identified in the 2004 Master Plan. Although limited residential development is permitted in this district, these types of uses are considered less appropriate for the land area immediately adjacent to the roadway corridor. As noted in the Master Plan, there is a relatively small amount of developable land remaining along these corridors and it should be reserved primarily for non-residential uses. Commercial and industrial development in this district should be done in accordance with the site design guidelines presented in the Master Plan that recommend a compact, nodal form of development (as opposed to strip commercial development), which employs parallel service roads whenever possible, as well as building and landscaping design that reflects community standards.

### **ARTICLE 3 - PERMITTED USES**

Except as herein provided, no building or land shall be used or occupied except for the purposes permitted in the district as described in this Article. A permit for the construction, installation, development, alteration, enlargement, moving, demolition, or use of a building or structure shall not be issued by the Building Inspector, or other town official, unless it complies with the provisions of this Article and/or has been granted a variance or special exception by the Zoning Board of Adjustment.

#### **3.1 General Provisions**

##### **3.1.1 Permitted Structures**

Unless otherwise specified within this Ordinance, only one principal structure may be placed on any legally developable lot.

##### **3.1.2 Prohibited Uses**

Any persistent uses that may be obnoxious or injurious by reason of the production or emission of odor, dust, smoke, refuse, fumes, noise, vibration, or similar conditions or that are dangerous to the comfort, peace, enjoyment, health, or safety of the community are prohibited. The limitations placed on these types of activities are more fully described in Section 7.1 of this Ordinance, Performance Standards.

##### **3.1.3 Building Codes**

All structures shall be constructed in accordance with the building codes adopted by the town that pertain to the proposed construction.

### **3.1.4 Impact Fees for Public Capital Facilities**

No building permit or certificate of occupancy shall be issued for any development which can be lawfully conducted under the terms of this Ordinance unless the required impact fee has been assessed and/or collected, as prescribed in Article 14.

### **3.1.5 Water Supply and Wastewater Treatment Systems**

All water supply and wastewater treatment systems, whether they are intended for use as a single user system, a community system, or any other type of user or usage, shall be constructed and maintained in accordance with the standards established by the New Hampshire Department of Environmental Services (NHDES).

### **3.1.6 Site Plan Regulations**

All multifamily dwelling units and non-residential development shall comply with the Site Plan Review Regulations of the Town of Barrington.

### **3.1.7 Parking**

All development constructed under the provisions of this Ordinance shall comply with the appropriate parking standards contained in the Site Plan Review and/or Subdivision Regulations of the Town of Barrington.

### **3.1.8 Signage**

No sign shall be constructed, erected or otherwise placed in any zoning district unless said sign is in compliance with the standards specified in the town's Site Plan Review Regulations.

### **3.1.9 Excavation of Earth Materials**

No property owner shall permit any excavation of earth materials on the premises, other than that which is incidental to the construction of a structure approved by the town, without first obtaining Planning Board approval in accordance with the Site Plan Review Regulations of the Town of Barrington.

## **3.2 Use Regulations**

The following Paragraphs 1) through 3) refer to Table 1, the Table of Uses, which is located in the Appendix of this Ordinance. Only uses listed in this Table shall be permitted in any zoning district in accordance with the following provisions.

- 1) **Uses Permitted by Right** – A use listed in the Table of Uses is permitted by a matter of right in the district, which is denoted by the letter “P”, subject to all other applicable local, state and federal regulations. If the letter “P” is accompanied by a number in parenthesis it indicates that the use is permitted only when in compliance with the conditions imposed as specified in the appropriate footnote, and subject to all other applicable local, state and federal regulations.

- 2) **Uses Permitted by Conditional Approval of Planning Board** – A use listed in the Table of Uses and denoted by the letters “CP” may be permitted if the Planning Board determines that the requested use can be established in compliance with the provisions of Section 3.4 as well as all other applicable provisions of this Ordinance, and subject to all other applicable local, state and federal regulations. If the letters “CP” are accompanied by a number in parenthesis it indicates that the use is permitted only when in compliance with the conditions imposed as specified in the appropriate footnote.
- 3) **Prohibited Uses** – Prohibited uses shall be denoted by a dash (–) in the Table of Uses. Unless a use is specifically permitted in a zoning district as indicated in the Table of Uses, it shall be prohibited.

### **3.3 Supplemental Regulations for Zoning Districts**

#### **3.3.1 Regulations Pertaining to All Districts**

- 1) **Manufactured Housing** – Manufactured housing units may be located on lawfully existing lots in manufactured housing parks, or, on individual lots anywhere conventional single-family homes are permitted. Manufactured housing units located on individual lots must comply with all dimensional standards applicable to conventional housing and must be erected on a permanent foundation. Manufactured housing units are not permitted within a Conservation Subdivision, as specified in Article 6. Manufactured housing shall not be construed to mean pre-site built or modular housing which shall be permitted within a Conservation Subdivision (Note: both terms are defined in Article 16 - Definitions).
- 2) **Recreational Vehicles** – A recreational vehicle, as defined in Article 16, shall not be construed as a dwelling unit under the provisions of this Ordinance. Temporary seasonal occupancy (not to exceed 120 days in any calendar year) of a recreational vehicle shall only be permitted at locations approved by the town and subject to all applicable state regulations. Occupancy of a recreational vehicle by any individual, group, or household, for more than 120 days in any calendar year shall not be permitted in Barrington.
- 3) **Prohibited Uses** – The storage, reprocessing, recycling, treatment or disposal of chemicals, hazardous substances, wastes or materials, municipal or industrial or medical waste, or metals, or the slaughtering and processing of animals and animal byproducts, as a principal or significant accessory use are prohibited in all districts.

#### **3.3.2 General Residential District**

- 1) Reserved

### **3.3.3 Neighborhood Residential District**

- 1) Reserved

### **3.3.4 Village District**

- 1) **Mixed Use Development** – New or expanded development in the VD district may combine any uses otherwise permitted in this district as part of a mixed use development. Such a development must comply with the standards set forth in the Site Plan Review regulations, as well as all other applicable town and state regulations.

### **3.3.5 Regional Commercial District**

- 1) No residential structures are permitted within five hundred (500) feet of the edge of right-of-way for Route 125 and Route 4 for properties located in the RC District.
- 2) **Mixed Use Development** – New or expanded development in the RC district may combine any uses otherwise permitted in this district as part of a mixed use development. Such a development must comply with the standards set forth in the Site Plan Review regulations, as well as all other applicable town and state regulations.

## **3.4 Conditional Use Permits Issued by Planning Board**

Following a public hearing on the proposed use, which may be combined with a public hearing held for a subdivision or site plan review application, the Planning Board may issue a Conditional Use Permit, if it finds, based on the information and testimony submitted with respect to the application, that conditions presented in this Section have been met. Granting of a Conditional Use Permit shall authorize the applicant to apply for a building permit and/or certificate of occupancy once all other applicable town, state and federal requirements have been complied with, including subdivision and/or site plan review approval.

- 1) The building, structure or use is specifically authorized under the terms of this Ordinance.
- 2) If completed, the development in its proposed location will comply with all requirements of this Ordinance, and with specific conditions or standards established in this Section for the particular building, structure or use.
- 3) The building, structure or use will not materially endanger the public health or safety.
- 4) The building, structure or use will not substantially de-value abutting property.
- 5) The building, structure or use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located.

- 6) The building, structure or use will not have a substantial adverse impact on highway or pedestrian safety.
- 7) The building, structure or use will not have a substantial adverse impact on the natural and environmental resources of the town.
- 8) Adequate public utilities, community facilities, and roadway capacity are available to the property to ensure that the proposed use will not necessitate excessive public expenditures in providing public services.
- 9) Where deemed necessary when considering an application for Conditional Use approval, the Planning Board may require that adequate visual buffers be established to screen the proposed development from adjoining properties or roadways.

## **ARTICLE 4 - DIMENSIONAL REQUIREMENTS**

### **4.1 General Provisions**

- 1) **Minimum Standards** - No building or structure shall be erected, enlarged, altered or moved, nor shall any existing lot size be changed or new lot created, except in accordance with the standards prescribed in Table 2, Table of Dimensional Standards, or as otherwise specified herein.
- 2) **Lot Frontage** - The side of a parcel used to satisfy the frontage requirement specified in the Table of Dimensional Standards, or other alternative standards, must be the side of the parcel used to provide vehicular access to the property. The Zoning Board of Adjustment may permit, by grant of a Special Exception, that a different side of the property be used for access because site constraints make using the otherwise required frontage inconsistent with protecting the safety, health and welfare of the public.
- 3) **Back Lots** - For new residential subdivisions, up to two (2) back lots may be allowed, notwithstanding the frontage requirements specified in the Table of Dimensional Standards. The parcel must have at least fifty (50) feet of frontage on an existing Class V or better road. If there are two (2) back lots, the ownership of the neck and frontage shall be owned equally by both back lots. The area of the neck cannot be used in any way to calculate the minimum lot size. Back lots are not allowed off of cul-de-sacs. Driveways must be centered in this neck as much as possible and the neck kept clear and maintained for safety. A road agreement will be enacted, shown on the plan and recorded in the deed of each lot. Backlots can only be created on lots of record in existence prior to January 1, 1991.

### **4.2 Minimum Lot Size Per Dwelling Unit**

The dimensional standards for residential lots prescribed in Table 2, the Table of Dimensional Standards, shall be determined in accordance with the provisions of this

Section. These dimensional standards may be reduced if a Conservation Subdivision, developed in accordance with Article 6, is approved by the Planning Board.

#### 4.2.1 Standards for the GR and NR District

- 1) In the GR and NR districts the minimum lot size for one dwelling unit is 80,000 sq. ft. which must include at least 60,000 sq. ft. free of Hydric A soils, open water, bogs, marshes, rivers, streams, or exposed ledge. Additionally, the 60,000 sq. ft. must contain 35,000 sq. ft. of contiguous upland soils.
- 2) For each additional one (1) bedroom dwelling unit under a common roof, the minimum standards cited in Paragraph 1) above shall be increased in the following proportions. Minimum lot size shall be increased by 40,000 sq. ft., the area free of Hydric A soils, open water, bogs, marshes, rivers, streams, or exposed ledge shall be increased by 30,000 sq. ft. and the area of upland soils shall be increased by 15,000 sq. ft.
- 3) For each additional dwelling unit under a common roof containing two (2) or more bedrooms, the minimum standards cited in Paragraph 1) above shall be increased in the following proportions. Minimum lot size shall be increased by 80,000 sq. ft., the area free of Hydric A soils, open water, bogs, marshes, rivers, streams, or exposed ledge shall be increased by 60,000 sq. ft. and the area of upland soils shall be increased by 35,000 sq. ft.

**Table 2**  
**Table of Dimensional Standards (a)**

Zoning District	Min. Lot Area (sq.ft.) (b)	Min. Lot Frontage (sq.ft.) (b)	Min. Yard Setbacks (ft.)			Max. Bldg. Height		Max. Lot Coverage (f)
			Front	Side	Rear	Feet	Stories	
General Residential	80,000	200	40	30	30	35	2.5	40%
Neighborhood Residential	80,000(c)	200	40	30	30	35	2.5	40%
Village District	30,000(g)	75	20	15	15	40	3	50%
Regional Commercial	40,000(d)	200	75(e)	30	30	40	3	50%

**Footnotes:**

(a) All development is subject to the additional and supplemental dimensional standards prescribed in Article 4 of this Ordinance.

(b) Refer to Article 4 for calculating the minimum lot size per dwelling unit.

(c) Minimum lot sizes and frontage may be reduced as part of a Conservation Subdivision in accordance with Article 6 of this Ordinance.

(d) Minimum lot sizes for residential dwelling units in the RC district shall be in accordance with Section 4.2 of this Ordinance.

(e) A greenbelt shall be maintained along the frontage of parcels on Route 125 in accordance with Subsection 4.2.3, Paragraph 4), of this Ordinance.

(f) Maximum lot coverage means the area of the lot covered by an impervious surface. All development is also subject to the provisions of Article 12, Groundwater Protection, with regard to the creation of impermeable surfaces.

(g) The minimum lot size for single-family dwelling units must comply with the provisions of Subsection 4.2.1 of this Ordinance, which are the same requirements for constructing a single-family dwelling in the GR and NR districts, as well as all other applicable provisions.

#### **4.2.2 Standards for the VD District**

- 1) The minimum lot size for non-residential uses in the VD district is 30,000 sq. ft., however, said lot must be of adequate size, as specified by the New Hampshire Department of Environmental Services (NHDES) regulations, to safely accommodate an on-site septic system and/or water supply system.
- 2) For commercial buildings containing an Accessory Apartment the minimum lot size shall be increased in accordance with NHDES requirements based on the number of bedrooms contained in the apartment(s).
- 3) Non-residential structures shall not exceed more than 10,000 sq. ft. of gross floor area
- 4) The minimum lot size for multifamily retirement housing developments shall be 30,000 sq. ft. per dwelling. This minimum shall be increased if necessitated by the requirements of the NHDES for installation of on-site septic systems and/or water supply system.
- 5) The minimum lot size for single-family dwelling units must comply with the provisions of Subsection 4.2.1 of this Ordinance, which are the same requirements for constructing a single-family dwelling in the GR and NR districts, as well as all other applicable provisions.

#### **4.2.3 Standards for the RC District**

- 1) The minimum lot size for non-residential uses in the RC district is 40,000 sq. ft. which must include an area of contiguous upland soils of not less than 35,000 sq. ft. This minimum shall be increased if necessitated by the requirements of the NHDES for installation of on-site septic systems and/or water supply systems.
- 2) All new residential dwelling units constructed in the RC district shall comply with the minimum lot size standards contained in Subsection 4.2.1 of this Ordinance, which are the same density requirements for constructing a residential dwelling in the GR and NR districts, as well as all other applicable provisions.
- 3) On any lot that abuts a residential district and that is developed for non-residential uses, a buffer of at least fifty (50) feet shall be maintained with sufficient vegetation to provide visual screening between uses in the adjoining residential district.
- 4) A greenbelt buffer of fifty (50) feet from the edge of the right-of-way shall be maintained along the frontage of parcels on Route 125, in which no development, storage, parking, or paving shall be permitted (except as necessary to provide access or signage). The greenbelt may be left in its natural state if sufficiently vegetated, as to provide a visual barrier or planted to provide a visually attractive vegetated area. Lots of record as of

March 9, 1999 are exempt from this provision to the extent that conformance is impossible, however, any such lot must conform as fully as possible with these buffer provisions.

## **ARTICLE 5 - NONCONFORMING LOTS, STRUCTURES, AND USES**

### **5.1 Nonconforming Lots**

#### **5.1.1 Development on Nonconforming Lots**

Structures shall be permitted on a lot having frontage or area that is less than required by the Table of Dimensional Regulations in this Ordinance if said structure is permitted by right within the zoning district and if the following provisions are met:

- 1) The lot was a legal lot of record and duly recorded at the Strafford County Registry of Deeds prior to adoption of this Ordinance;
- 2) The lot is capable of supporting a well and septic system designed and installed in compliance with all applicable town and state regulations; and
- 3) All proposed uses, buildings, and structures, shall comply with the setback requirements in the Table of Dimensional Regulations.

#### **5.1.2 Merger of Certain Nonconforming Lots**

If two (2) or more unimproved lots of record are contiguous and held in single ownership on or after the effective date of this Ordinance, and if one (1) or more of the lots have been rendered nonconforming, based on area or frontage, by passage of this Ordinance, the lots shall be deemed to be merged into one (1) undivided parcel of land.

#### **5.1.3 Certified Plan Required For Building on One Acre or Smaller Lots**

Before a building permit is issued for the erection of any structure or construction otherwise permitted on a nonconforming lot of one (1) acre or less in area, a plan stamped and certified by a licensed land surveyor must be submitted to the Building Inspector. The plan must show the exact location of all existing and proposed property lines, wells, septic tanks and leach fields, and structures on the lot in question. The plan must be drawn to a scale of not less than one (1) inch equaling fifty (50) feet (1" = 50').

### **5.2 Nonconforming Structures**

Where a lawful building or structure exists at the effective date of this Ordinance, or applicable amendment, that could not be built under the terms of this Ordinance or amendment by reason of restrictions on area, lot coverage, height, setbacks, or other dimension requirements, the building or structure may be continued so long as it

remains otherwise lawful. Such a nonconforming building or structure may not be enlarged, expanded, or otherwise altered in such a manner that results in said building or structure being made less conforming to the provisions of this Ordinance, except as provided for below.

### **5.2.1 Permitted Expansion for Certain Nonconforming Structures**

- 1) Any lawfully-existing nonconforming structure may be enlarged or expanded if such an expansion can be executed in compliance with all setbacks, height limitations and other dimensional requirements of this Ordinance and does not make the building or structure less conforming than its present configuration, except as provided for in Paragraph (2) below.
- 2) Notwithstanding any other provisions to the contrary, a lawful nonconforming structure may be expanded into a setback area by the addition of an unenclosed stoop, open deck or stairs, provided the same do not extend more than 8 feet into the required front, side or rear setback and provided further that at least 15 feet remain between the exterior of the addition and the nearest lot line.

### **5.2.2 Special Exception for Accessibility Additions/Structures**

If a structure or addition is necessary to provide access to a residence or business to accommodate persons with a disability that reasonably cannot be built or provided without violating the setback provisions of this Ordinance, the property owner may apply to the Zoning Board of Adjustment for a special exception to build or supply the accessibility addition/structure and this special exception shall be granted if the Zoning Board of Adjustment finds that:

- 1) The structure or addition is reasonably necessary for access purposes as provided herein;
- 2) The structure or addition reasonably cannot be built without violating the setback(s) or cannot be built without violating the setback(s) except with unreasonable expense to the owner;
- 3) The setback violation is as small as reasonably possible under the circumstances;
- 4) The value of abutting properties will not be affected adversely; and
- 5) The structure or addition is consistent with the health, safety and welfare of the public and the occupants/users of the premises.

An application for special exception considered by the ZBA under this Subsection does not need to comply with the provisions of Section 15.2.

## **5.3 Non-conforming Uses**

Where on the effective date of adoption of this Ordinance or applicable amendment, a lawful use of land exists which would not be permitted by the regulations imposed by

this Ordinance, the use may be continued so long as it remains otherwise lawful, and is in compliance with the following provisions of this section:

- 1) A nonconforming use may not be changed to another nonconforming use, extended or enlarged to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance, except as provided for in Subsection 5.3.2 below.
- 2) No such nonconforming use shall be moved, in whole or in part, to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.
- 3) Once changed to a conforming use, no structure or land shall revert to a nonconforming use.
- 4) A nonconforming use that has been discontinued for a period of one (1) year shall not be resumed or replaced by any other nonconforming use.

### **5.3.2 Special Exception for Certain Changes In Use**

The Zoning Board of Adjustment may grant a special exception authorizing a change from one nonconforming use to another nonconforming use where the Zoning Board of Adjustment finds that the following conditions have been met:

- 1) There will be no increase in any dimensional nonconformity;
- 2) The value of neighboring properties will not be affected adversely;
- 3) There will be no increased or unreasonable risk of harm to the health, safety or welfare of neighbors or the public; and
- 4) The change is consistent with the spirit and intent of this Ordinance.

An application for special exception considered by the ZBA under this Subsection does not need to comply with the provisions of Section 15.2.

## **ARTICLE 6 - CONSERVATION SUBDIVISIONS**

### **6.1 Purpose**

The 2004 Master Plan contains strategic objectives that recommend implementing changes in municipal regulations that encourage future land development activities to set aside more open space for the purposes of maintaining the town's character, protecting key natural resource features, preserving wildlife habitat, and creating recreation opportunities for residents. In an effort to achieve these and other related objectives of the Master Plan, the regulations contained in this Article are intended to encourage the preservation of open space by promoting greater flexibility in the design of residential subdivisions than would otherwise be possible following conventional subdivision practice. All proposals for development of a Conservation Subdivision in Barrington should be designed to achieve as many of the objectives listed below as possible given the specific characteristics of the site under consideration.

- 1) To maintain and protect Barrington's rural character by preserving important landscape elements, including those areas containing such unique and environmentally sensitive natural features as unfragmented woodlands, stream corridors, wetlands, floodplains, shorelands, steep slopes, ridgetops, and critical species habitat by setting them aside from development.
- 2) To preserve scenic views and to minimize views of new development from existing streets.
- 3) To provide for comprehensive site planning of larger tracts of land in order to facilitate better site design concepts that are compatible with the existing natural features and terrain in order to minimize disturbance of landscape elements.
- 4) To increase flexibility and efficiency in the siting of services and infrastructure by reducing street length, utility requirements, drainage requirements, and the amount of paved surfaces, where possible.
- 5) To permit active and passive recreational use of open space by residents of the proposed development and/or by the general public.
- 6) To promote the preservation of large blocks or corridors of protected open space by "linking" together smaller individual open space areas on adjoining parcels.
- 7) To reduce erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes.
- 8) To permit various means of owning open space and for protecting it from development in perpetuity.
- 9) To implement the objectives of the Barrington Master Plan.

## **6.2 Density and Dimensional Standards**

### **6.2.1 Minimum Tract Size**

The minimum size tract of land on which a Conservation Subdivision may be constructed is twenty (20) acres in the General Residential (GR) district and thirty (30) acres in the Neighborhood Residential (NR) district.

### **6.2.2 Common Open Space**

Common open space, as defined herein, must constitute at least fifty percent (50%) of the total tract area in the GR district, and sixty percent (60%) of the total tract area in the NR district, and shall comply with the following design standards:

- 1) The location of common open space shall be consistent with the objectives of the Master Plan.
- 2) All open space areas shall be part of a larger contiguous and integrated open space system. At least seventy-five (75) percent of the common open space shall be contiguous. For purposes of this section, contiguous shall be

defined as located within one hundred (100) feet across which access is possible, for example, on opposite sides of an internal street. No common open space areas shall be less than 10,000 square feet in size and any areas below this threshold shall not be counted toward the required minimum percentages of open space specified in this subsection for the GR and NR districts.

- 3) The total amount of open space that is identified as open water, wetland soils, exposed ledge, or other terrain conditions that would normally be considered otherwise undevelopable, shall not constitute more than fifty percent (50%) of the area proposed as open space within a Conservation Subdivision. The Planning Board may allow for a smaller or larger percentage if it determines that by doing so the proposed development will better achieve the objectives specified in Section 6.1 or that the resulting development will preserve features of the site that are of particular importance to the town.
- 4) Common open space shall, to the greatest extent possible, protect site features identified in the site inventory and analysis as having particular value in the context of preserving rural character. Environmental corridors, such as streams, rivers, or wildlife trails, as well as areas that are contiguous to protected open space on adjoining parcels, are considered to be of particular importance for preserving. (See Section 6.1).
- 5) Natural features shall generally be maintained in their existing condition, but may be modified to improve appearance or restore their overall condition and natural processes, as recommended by professionals with expertise in this area.
- 6) The location of proposed open space shall be situated so as to maximize common boundaries with existing or future open space on adjacent tracts.
- 7) In order to preserve scenic views, ridgetops and hilltops should be contained within common open space wherever possible.
- 8) Common open space may be used for individual or community water and sewerage systems required to service the proposed development.
- 9) Common open space may not be used for:
  - (a) private lot areas
  - (b) cluster group lot areas
  - (c) street rights-of-way
  - (d) parking areas
- 10) Safe and convenient pedestrian access and access for maintenance shall be provided to common open space areas.

### **6.2.3 Creation of Lots and Minimum Lot Sizes**

- 1) Conservation Subdivisions may be developed in one of the following ways:

- (a) Individual house lots for detached, single-family dwellings;
  - (b) As cluster group lots for attached single-family dwellings; or
  - (c) As land without lots (for either detached or attached dwellings) that is held in common interest by all homeowners residing in the subdivision.
- 2) The mixing of housing alternatives specified in Paragraph 1) above shall not be permitted in a Conservation Subdivision wherein the development must either be all individual house lots, all cluster group lots, or all commonly owned land.
  - 3) Land that is set aside as dedicated open space for public use shall be subdivided into a separate parcel in all of the development alternatives specified in Paragraph 1).
  - 4) Single-family, detached dwelling units may be placed on individual lots in a Conservation Subdivision. The minimum lot size for a single-family, detached dwelling unit shall not be less than 20,000 square feet. Subdivisions containing attached single-family dwelling units, or detached units without lot lines, shall be divided into cluster groups, as described in Subsection 6.2.5 of this Article.

#### **6.2.4 Dimensional Standards for Single-Family Lots**

Table 3 provides the minimum standards for lot dimensions, building setbacks, and other dimensional requirements for subdivisions containing detached single-family dwellings on individual lots. The following standards apply only to the construction of single-family dwellings in Conservation Subdivisions as outlined in Subsection 6.2.3, Paragraph 1).

<b>Table 3 Dimensional Standards for Detached Units on Individual Lots</b>	
<b>Minimum Standard</b>	
<b>Lot Size</b>	20,000 sq. ft.
<b>Lot Width (at front building setback)</b>	75 ft.
<b>Front Setback (from interior roads)</b>	25 ft.
<b>Side Setback</b>	20 ft.
<b>Rear Setback</b>	20 ft.

#### **6.2.5 Design Standards for Cluster Groups**

The following standards shall apply to all cluster groups:

- 1) All dwelling units, with the exception of single-family detached houses on individual lots, shall be grouped together into cluster groups, each of which shall contain no more than eighteen (18) units and be surrounded by common open space.
- 2) The maximum number of dwelling units in a cluster group may be increased and cluster groupings may be assembled into larger groupings

with the approval of the Planning Board, provided the applicant can demonstrate that such an alternative plan is more appropriate for the tract in question and will meet both the general intent and design standards of this Ordinance.

- 3) Cluster groups shall be defined by the outer perimeter of a contiguous lotted area or abutting streets and may contain streets, parking areas, accessory structures, or cluster group open space. The outer perimeter shall be defined as an area encompassed by a line drawn around the units, no point of which is closer than one hundred (100) feet to any unit. The cluster group perimeter does not have to be a legally recorded lot and may simply be a plan feature that defines open space associated with a particular group of dwellings.
- 4) Cluster groups shall be separated by at least one hundred (100) feet from another cluster group. This separation shall be composed of common open space in order to provide direct access to open space for privacy and yard areas for proposed dwelling units. Cluster groups may also be separated by streets.
- 5) All cluster groups shall obtain driveway access from interior streets.
- 6) In locating cluster groups, disturbance to the site's topography and important natural features, as identified in the site inventory, should be minimized.

#### **6.2.6 Perimeter Buffer**

All Conservation Subdivisions must have a perimeter buffer setback of one hundred (100) feet around the entire tract that may not contain any structures or individual house lots. The buffer should provide a visual screen from exterior roads by either retaining existing woodlands or by planting additional landscaping that is considered sufficient to provide such screening.

### **6.3 Permitted Uses and General Provisions**

#### **6.3.1 Permitted Uses**

##### **1) Primary Uses**

Primary permitted uses include single-family detached dwelling units and single-family attached dwelling units. Structures containing attached dwellings may not contain more than six (6) units per structure. Home businesses, as defined in this Ordinance, are specifically prohibited from Conservation Subdivisions.

##### **2) Accessory Uses**

Accessory permitted uses include garages, recreation facilities such as playgrounds, parks and trails, parking lots for residential or recreational uses, and other accessory uses commonly associated with residential dwellings.

### **6.3.2 Site Inventory and Conceptual Development Plan Required**

All applications to the Planning Board for a Conservation Subdivision shall be accompanied by a Site Inventory that identifies existing natural and man-made features that represent the landscape character of the tract. This inventory shall be used by the developer and the Planning Board in determining which features of the site are most important to preserve as part of the proposed development. The specific information that must be presented in the Site Inventory is contained in the town's development regulations (subdivision and site review).

Prior to submission of an engineered/surveyed plat plan for a Conservation Subdivision, as required in the town's Subdivision and/or Site Plan Review Regulations, all applicants shall submit a Conceptual Development Plan for consideration by the Planning Board. Said Conceptual Development Plan shall show the general location of proposed roadways, lots, open space and buffers, as well as the significant features that have been identified as part of the Site Inventory. The purpose of this pre-application plan review is to insure that the development's proposed open space is shaped around the significant natural, cultural and historic features located on the site.

For comparison purposes, the Planning Board may also require an applicant to submit a second Conceptual Development Plan that illustrates a conventional subdivision layout, based on the town's zoning and subdivision standards, for a non-clustered development on the proposed site. The purpose of this second plan would be to insure that the number of dwelling units proposed for the Conservation Subdivision does not exceed the maximum number of dwelling units allowed as specified in Subsection 6.4 of this Ordinance.

### **6.3.3 Compliance with Other Regulations**

All Conservation Subdivisions shall, in addition to the requirements of this Ordinance, comply with applicable standards contained in the Barrington Subdivision and Site Review Regulations, as well as all other applicable town and state regulations and policies.

### **6.3.4 Water and Sewerage Facilities**

Subdivisions constructed under this Article may employ either individual wells or community water systems, and individual or community septic systems. All such systems shall be constructed in compliance with the standards prescribed by the New Hampshire Department of Environmental Services.

### **6.3.5 Homeowner's Association Required**

As a condition of approval, the applicant for a Conservation Subdivision shall be required to provide for the establishment of a Homeowner's Association, or similar entity, to manage in perpetuity all land and improvements within the subdivision that are to be owned in common. Specific requirements for the establishment of such an association are defined in the town's Site Plan Review regulations.

## **6.4 Determining Permitted Density**

The permitted density for a Conservation Subdivision shall be calculated based on a Net Density approach after having completed a site inventory of existing features on the tract proposed for development. The Net Density is the determination of how many dwelling units may be constructed on the tract after calculating the Net Developable Area, which deducts a percentage for certain features, such as wetlands or steep slopes, which are considered less suitable for development.

### **6.4.1 Calculating Net Developable Area**

The Net Developable Area is the calculated acreage that remains after deducting the area pertaining to the following features from the total tract area.

- 1) One hundred percent (100%) of all surface water bodies
- 2) Seventy-five percent (75%) of all Hydric A and fifty percent (50%) of Hydric B soils
- 3) Slope restrictions as follows:
  - (a) One hundred percent (100%) of slopes greater than twenty-five percent (25%); and
  - (b) Twenty-five percent (25%) of slopes between fifteen percent (15%) and twenty-five percent (25%).
- 4) One hundred percent (100%) of all existing and proposed street rights-of-way.

### **6.4.2 Calculating Net Density in the GR District**

- 1) Divide the Net Developable Area, as calculated in Subsection 6.4.1, by 80,000 sq. ft. The resulting number is the total number of units permitted on the development tract. However, under no circumstances shall the number of units permitted on the development tract exceed by ten percent (10%) the number of units that would otherwise be permitted in a conventional subdivision within this district, based on the customary and reasonable application of the density standards prescribed in Section 4.2 of this Ordinance.
- 2) Where the calculation results in a fraction of a unit, and the fraction is one-half (1/2) or greater, the number of units may be rounded to the next larger whole number.

### **6.4.3 Calculating Net Density in the NR District**

- 1) Divide the Net Developable Area, as calculated in Subsection 6.4.1, by 60,000 sq. ft. The resulting number is the total number of units permitted on the development tract. However, under no circumstances shall the number of units permitted on the development tract exceed by twenty percent (20%) the number of units that would otherwise be permitted in a conventional subdivision within this district, based on the customary and

reasonable application of the density standards prescribed in Section 4.2 of this Ordinance.

- 2) If the required open space is dedicated for public use, then the Net Density shall be calculated by dividing the Net Developable Area, as calculated in Subsection 6.4.1, by 40,000 sq. ft. However, under no circumstances shall the number of units permitted on the development tract exceed by thirty percent (30%) the number of units that would otherwise be permitted in a conventional subdivision within this district, based on the customary and reasonable application of the density standards prescribed in Section 4.2 of this Ordinance.
- 3) In order to qualify for the density bonus described in Paragraph 2), the Planning Board must determine that the proposed public open space is suitable to meet the goals of the Master Plan and other applicable recreation, open space, and capital facilities objectives of the community. Ownership of the public open space will be a factor considered by the Planning Board in evaluating the merits of the proposed development.
- 4) Where the calculation of either Paragraphs 1) or 2) results in a fraction of a unit, and the fraction is one-half (1/2) or greater, the number of units may be rounded to the next larger whole number.

## **ARTICLE 7 - SUPPLEMENTAL REGULATIONS**

### **7.1 Performance Standards**

The intent of this section is to prevent land or buildings from being used or occupied in any manner that would create any dangerous, injurious, noxious, hazardous or nuisance conditions. **No use or structure otherwise permitted under this Ordinance shall be permitted by right or special exception which unreasonably and adversely affects the quality of air, water supplies, water bodies or courses, or other significant natural or artificial resources of the Town of Barrington.** The burden of establishing compliance with these Performance Standards shall be on the applicant and/or property owner. The town, through an appropriate regulatory official or body, may require an environmental assessment or other appropriate studies, at the applicant's or property owner's expense, to aid in the determination of compliance with the following standards:

#### **7.1.1 Vibration**

No vibration shall be produced that is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot line of the site upon which such vibration is produced.

**7.1.2 Noise**

All noise, except that generated by normal human or vehicular activity, shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. At property lines noise levels shall not exceed 75 DBA.

**7.1.3 Odors**

No condition or operation that will result or does result in the creation of odors of such intensity or character as to be detrimental to the health and welfare of the public or as to interfere unreasonably with the comfort of the public shall be permitted to be established or allowed to continue.

**7.1.4 Air Quality**

Emissions into the air of any kind shall not be visible at ground level at any point outside the property lines of the site upon which such emissions are generated. No visible emissions shall be discharged into the air in excess of the limitations listed below.

- 1) Smoke shall be regulated by the Ringlemann Chart method and limited to a maximum No. 2 Ringlemann for periods totaling 4 minutes in any 30 minute period and to a maximum No. 3 Ringlemann for periods totaling 3 minutes in any 15 minutes when starting a new fire.
- 2) At property lines, dust, dirt, and fly ash shall not exceed 0.3 grains per cubic foot of flue gas at a stack temperature of 500 degrees Fahrenheit and shall not exceed 50% excess air and in no manner be unclean, destructive, unhealthful, or hazardous. Visibility shall not be impaired by the emission of a haze with apparent opaqueness equivalent to or greater than No. 2 of the Ringlemann Chart.
- 3) There shall be no emissions into the air that contain sulfur dioxide in quantities greater than 2000 parts per million as measured in the flue.
- 4) No person shall cause or permit any material to be handled, transported or stored in a manner that allows or may allow particulate matter to become airborne. This section shall not apply to residential wood stoves.

**7.1.5 Glare**

No direct or sky-reflected glare from high temperature processes such as combustion, welding or otherwise shall be visible at any point beyond the lot line.

**7.1.6 Heat**

There shall be no emission or transmission of heat or heated air so as to be discernible at or beyond the lot line.

**7.1.7 Waste Disposal**

No waste material, garbage or refuse shall be disposed of, or allowed to remain on-site for extended periods of time. Temporary storage of such wastes must be in appropriate refuse containers. No waste materials, garbage or refuse shall be

dumped or allowed to remain in such a condition as to result in, or be reasonably likely to result in, scattering due to wind or precipitation, leakage into the ground or other discharge or run-off. Upon written complaint from the town's representative, the violator shall promptly remove all waste materials. In the event that the waste material, garbage, or refuse is left from a construction project, the issuance of a certificate of occupancy may be withheld until this material is removed. This section shall not be construed to prohibit the on-site disposal of stumps in conformity with state law.

### **7.1.8 Vision Clearance**

No structure, vehicle, vegetation, sign, fence or other obstacle shall be placed or maintained in such a manner as to create a traffic hazard or obstruct the vision clearance or sight distances at corners, driveways, intersections or curves in a road, street or highway, public or private.

## **7.2 Development on Class VI Roads and Private Roads**

Development on Class VI and private roads shall be in accordance with the policies and standards adopted by the Barrington Board of Selectmen.

## **7.3 Home Occupation**

In zoning districts that permit the establishment of home occupations, all such uses must comply with the following provisions. If the Zoning Administrator determines that the proposed use is in compliance with all of the following provisions, authorization for the home occupation may be granted by the Building Inspector without review by the Planning Board. The proposed use must also comply with all other applicable local, state and federal regulations.

- 1) A home occupation may only be conducted within a detached single-family dwelling.
- 2) Not more than one (1) home occupation may be carried on in a dwelling.
- 3) No more than thirty percent (30%) of the dwelling's net living area shall be devoted to such use.
- 4) There shall be no display of goods or wares visible from the street except that one (1) unlighted sign, which is no larger than four (4) square feet in size, may be placed on the property.
- 5) Not more than one (1) commercial vehicle related to said home occupation shall be stored on the premises.
- 6) The building or premises containing said home occupation shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of exterior appearance, traffic, emission of odor, smoke, dust, noise, on-site storage of hazardous materials as determined by the Barrington Fire Department.

- 7) A certificate of occupancy for the proposed use shall be issued by the Building Inspector once verification with all the preceding standards is confirmed.

#### **7.4 Home Business**

In zoning districts that permit the establishment of home businesses all such uses must receive a Conditional Use Permit from the Planning Board for said use. At a minimum, the Planning Board must determine that all of the following conditions have been met before such a permit may be authorized. The proposed use must also comply with all other applicable local, state and federal regulations.

- 1) All home businesses must receive a Conditional Use Permit and Site Plan approval from the Planning Board.
- 2) Before granting a conditional use permit the Planning Board must determine that the proposed structure(s), location, and size of the parcel, are of a suitable scale, appearance, and character that are compatible with the surrounding development and neighborhood where the use is proposed.
- 3) A home business may only be conducted as an accessory use to a detached single-family dwelling located on the same property.
- 4) Not more than one (1) home business may be established on a property.
- 5) No more than two (2) non-residents of the property may be employed within a home business.
- 6) The use may be conducted in a separate accessory building but said building shall contain no more than 2,500 square feet of total floor space.
- 7) The home business shall be totally conducted within the designated accessory structure but may occupy an area outside said structure if this area is adequately screened with fencing or a vegetative buffer. In no case shall the activities of the home business, both inside and outside the accessory structure, occupy more than 4,500 square feet.
- 8) There shall be no display of goods or wares visible from the street except that one (1) unlighted sign, which is no larger than four (4) square feet in size, may be placed on the property.
- 9) Not more than two (2) commercial vehicles related to said home business shall be stored on the premises.
- 10) The building or premises containing said home business shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of exterior appearance, traffic, emission of odor, smoke, dust, noise, on-site storage of hazardous materials as determined by the Barrington Fire Department.
- 11) A certificate of occupancy for the proposed use shall be issued by the Building Inspector once verification with all the preceding standards is confirmed.

## **7.5 Fences**

### **7.5.1 Fence Height**

Fences shall not exceed eight (8) feet in height, except that the Planning Board, through the site review process, may allow a fence of greater height if such a fence is deemed necessary by the Planning Board to safeguard the property or the public health, safety or welfare.

### **7.5.2 Fence Design**

The finished side of a fence shall face outward from the property on which the fence is located. The side of a fence containing the post or poles or other bracing shall face inward to the property being fenced in or on which the fence is located.

### **7.5.3 Fence Siting**

On a corner lot, fences shall be subject to the vision clearance provisions of Subsection 7.1.8 of this Ordinance.

## **7.6 Off-Street Parking and Loading Spaces**

The required number of off-street parking and loading spaces for multifamily and non-residential developments permitted under this Ordinance shall be determined by, and comply with, the applicable standards contained in the town's Site Plan Review regulations.

## **7.7 Scenic Roads**

The Town of Barrington has designated certain roadways in the town as Scenic Roads, as provided for under state statute, which are identified in the Master Plan. Any alteration of these roadways, or roads that receive designation as Scenic Roads in the future, shall be done in accordance with RSA 231:158, as amended.

# **ARTICLE 8 - HIGHWAY COMMERCIAL DISTRICT OVERLAY (HCO)**

## **8.1 Purpose and Intent**

The purpose of the Highway Commercial District Overlay is to support the development of appropriate levels of commercial development along portions of the state highways located in Barrington and to provide alternative opportunities for promoting economic development within the town. This overlay district is established with the recognition that the areas adjacent to these state highways represent a "transitional zone" that presents limitations and constraints for the development of both residential and non-residential uses. Therefore, this district is intended to provide flexibility in evaluating the suitability of each property based upon the specific site characteristics and constraints of individual parcels while also attempting to minimize conflicts with existing residential development in the affected area.

## **8.2 District Defined**

The Highway Commercial District Overlay (HCO) zone includes parcels of land that have frontage on the portions of State Highway Routes 202, 9, and 126 that are located within the boundaries defined on the Official Zoning Map. The boundaries illustrated on the Zoning Map are intended to indicate that the HCO includes all land area within seven hundred and fifty (750) feet of the centerline of said highways. Only parcels that have frontage on these state highways shall be considered to be included in the HCO zoning district and subject to all applicable regulations set forth in this Article. If a parcel is split by the HCO district boundary the use of the respective portions of the parcel shall be determined based on the criteria specified in Subsection 2.1.2 of this Ordinance.

## **8.3 Permitted Uses**

Uses permitted in the HCO district are listed in Table 1, Table of Uses, located in the Appendix of this Ordinance. In addition to the uses specifically listed in this Table as being permitted in the HCO, all uses normally permitted in the GR and NR districts shall also be permitted, subject to all other applicable provisions, within the HCO district.

## **8.4 Dimensional Requirements**

Minimum lot size, frontage, setbacks, and building height shall be the same as that which is specified for the applicable GR or NR based district, as noted in Table 2, Table of Dimensional Standards.

## **8.5 Approvals Required**

All non-residential development that is permitted in the HCO district, as specified in the Table of Uses, must also receive a Conditional Use Permit from the Planning Board as outlined in Section 3.4 of this Ordinance. In addition to a Conditional Use Permit, all proposals for the development of non-residential and multifamily uses that are otherwise permitted in the HCO district shall also be subject to the provisions of the town's Site Plan Review Regulations.

# **ARTICLE 9 - WETLANDS PROTECTION DISTRICT OVERLAY (WDO)**

## **9.1 Purpose and Intent**

The general purpose of this District is to preserve and protect the many wetland areas in Barrington for the benefit of public health, safety and welfare. The intent of this section is to restrict the use of wetland areas and their buffers to promote the following goals:

- 1) Prevent the pollution of surface waters and groundwater;
- 2) Prevent the dewatering of wetlands;

- 3) Prevent adverse impact to wetlands that provide flood protection, recharge of groundwater supply, augmentation of stream flow during dry periods, habitat for plants, fish or wildlife, or commerce, recreation or aesthetic enjoyment; and
- 4) Permit those uses that can be appropriately and safely located in wetlands and their buffers areas.

## **9.2 Wetlands Defined**

For the purposes of this Ordinance, “wetlands” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs, and similar areas. In accordance with New Hampshire Department of Environmental Services and United States Army Corps of Engineers requirements, jurisdictional wetlands are to be identified and delineated using the 1987 Corps of Engineers Wetlands Delineation Manual. Jurisdictional wetlands are to be delineated by a New Hampshire certified wetland scientist or a New Hampshire certified soil scientist.

## **9.3 Prime Wetlands**

In conjunction with the definition of wetlands in Section 9.2, the Town of Barrington has also delineated a special classification of wetlands referred to as Prime Wetlands, in accordance with state statutes authorizing such designation. The approximate boundaries of Prime Wetlands located in Barrington are illustrated on tax maps dated January 1991, along with an accompanying report entitled Prime Wetlands Report, Town of Barrington, New Hampshire, January 1991, which identifies the important values and critical functions that are provided by these wetlands. The Prime Wetland maps and report are on file at the Barrington Town Offices as well as the offices of the New Hampshire Department of Environmental Services (NHDES).

### **9.3.1 Delineation of Prime Wetland Boundaries**

On any parcel of land where development is proposed, and that also contains a Prime Wetland as identified in the town’s study cited in Section 9.6, or as designated by the town at any time thereafter, the applicant applying for said development approval shall be required to delineate the area of all Prime Wetlands on plans submitted to the town. Since the Town adopted its Prime Wetland designation prior to January 1, 1992, the edge of the Prime Wetland shall be considered to be the areas where one hundred percent (100%) of the soils are Hydric A, which also have the presence of hydrophytic vegetation and wetlands hydrology. The procedures and standards for mapping said Prime Wetlands shall be done in accordance with the methods prescribed in this Ordinance, as well as the town’s Subdivision and/or Site Plan Review Regulations, for mapping any jurisdictional wetlands.

If the boundary of a Prime Wetland is contested, the applicant may present data and evidence to the NHDES and to the Barrington Conservation Commission

relative to the correct location of the boundary. In the event of a dispute, the final delineation shall be determined by the NHDES based on the data and evidence submitted.

#### **9.4 Permitted Uses and Structures**

The uses and structures listed in Paragraphs 1) through 5) of this Section, and no others, except as provided for in Subsection 9.5.1, are permitted in wetlands and their buffer areas but only if the Planning Board determines that such a use or structure: is consistent with the purposes expressed in Section 9.1; does not involve substantial alteration of the surface configuration of the land; and will not result in a significant net loss of values associated with the functions of the wetland.

- 1) Forestry/tree farming;
- 2) Agriculture, including grazing, farming, truck gardening and harvesting of crops; but not including the stockpiling of manure or other activities or practices that could contaminate surface water or groundwater;
- 3) Drainage ways: streams, creeks or other paths or normal runoff water;
- 4) Open space, wildlife refuges, conservation areas, nature trails and passive recreational uses; and
- 5) Culverts, footbridges, catwalks and wharves only, provided that:
  - (a) The structures are constructed on posts or pilings so as to permit the unobstructed flow of water; and
  - (b) The natural contours of the wetland are preserved.

#### **9.5 Wetland Buffer Areas Required**

A buffer area of fifty (50) feet is required from the edge of any wetland. If a vernal pool is determined to be located on a site a greater buffer may be required by the Planning Board. In the case of a Prime Wetland a minimum buffer of one hundred (100) feet shall be required from the edge of the wetland. The Planning Board may require a larger buffer around a Prime Wetland if an assessment of its functions indicates that such an increase is warranted to protect the roles the wetland serves that are of value to the public or the environment including, but not limited to, flood water storage, flood water conveyance, groundwater recharge and discharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fisheries, wetland plant habitat, aquatic habitat and wildlife habitat.

Within any required wetland buffer, including by way of example and not by way of limitation, no structures, impermeable surfaces, parking spaces, or construction-related activities, including dredging, filling, and re-grading, shall be permitted, except as noted in Subsection 9.5.1 below.

### **9.5.1 Exceptions for Construction in Wetland Buffers**

- 1) On all lots created after March 11, 1997 and before March 13, 2001, no structure shall be built or located closer than thirty-five (35) feet to a wetland area.
- 2) An existing building within a buffer area may be repaired and/or replaced provided that the new or repaired structure, including any impermeable surfaces, shall not extend further into the buffer area than the footprint of the original foundation.
- 3) Driveway crossings that would fall under the New Hampshire Department of Environmental Services Administrative Rule – 303.04, as amended, that expedites certain types of wetland crossings may be permitted.
- 4) This Ordinance shall not prohibit the construction of principal and accessory structures within the buffer zone on unimproved lots that were approved for subdivision by the Planning Board or which otherwise legally existed on or before March 13, 2001.
- 5) The following features shall not be construed as wetlands with regard to designating buffer areas under the provisions of this Ordinance.
  - (a) Manmade ditches and swales
  - (b) Sedimentation/detention basins or ponds
  - (c) Manmade agricultural/irrigation ponds and swales
  - (d) Fire ponds and cisterns
  - (e) A septage or manure lagoon
  - (f) Silage pits
  - (g) An isolated wetland or surface water of 3,000 square feet or less that does not meet the definition of a swamp, marsh, bog or vernal pool

### **9.6 Special Permit for Construction in a Wetland Buffer**

A use not otherwise permitted in the wetlands buffer may be undertaken if the Planning Board approves an applicant's request for a Special Use Permit, provided such use is in keeping with the intent and purposes set forth in this Ordinance as permitted in the base zoning district and meets the standards listed below. (Reference – RSA 674:21 II)

- 1) After a review of all reasonable alternatives it is determined to be infeasible to place the structure outside of the buffer zone;
- 2) The structure must be set back as far as possible from the delineated edge of the wetland or surface water;
- 3) Appropriate erosion control measures must be in place prior to and during construction;
- 4) Any disturbance to the surrounding buffer zone must be repaired and restored upon completion of construction; and

- 5) All available mitigation measures to address changes in water quality and quantity be implemented, along with design and construction methods to minimize adverse impacts, if required by the Planning Board.

## **ARTICLE 10 - WIRELESS COMMUNICATION FACILITIES OVERLAY (WCO)**

### **10.1 Purpose and Intent**

It is the purpose of this ordinance to permit carriers to locate personal Wireless Communication Facilities within the Town of Barrington according to the provisions of the Federal Telecommunications Act of 1996, and to ensure that such facilities have the least impact on residential neighborhoods, scenic features, and the general safety and appearance of the town.

### **10.2 Standards**

Wireless Communication Facilities shall be permitted in all Districts, and shall be subject to Subsection 7.1 (Performance Standards) of this Ordinance as well as the standards listed below.

- 1) The use poses no unreasonable risk of harm to the health, safety or welfare of abutters or the public;
- 2) The use will not diminish the value of neighboring properties;
- 3) By its nature and design or by the use of visual buffers (vegetative or topographical), the use will not substantially alter the character of the area where applicable, or its utility for residential uses; and
- 4) The use will be consistent with the spirit and intent of this Ordinance.

### **10.3 Location of Facilities**

Wherever feasible, Wireless Communication Facilities shall be located or co-located in or on existing structures, including but not limited to buildings, water towers, existing telecommunication facilities, utility poles and towers and related facilities, providing that such installations will not adversely affect the character or integrity of an existing structure.

- 1) Burden of Proof – The applicant shall have the burden to prove that there is no existing and available structure upon which it is feasible to locate the proposed facility. If the applicant makes such a showing, the proposed new structure shall be located and designed so as to minimize any adverse impacts to the greatest extent possible, which shall include but not be limited to the use of building materials and colors that are compatible with those in the surrounding area, screening, landscaping, proportional sizing and placement within trees.
- 2) The applicant shall submit to the Planning Board, a list of all contacts made with the owners of potential sites regarding the availability of space

required for their service. The Planning Board may suggest other additional existing structures that may be available and it will be the responsibility of the applicant to contact owners of those properties.

- 3) The applicant shall provide copies of letters of inquiry made to owners of existing structures and letters of rejection. If letters of rejection are not provided, unanswered "Return Receipt Requested" forms from the United States Postal Service shall be provided for each owner contacted.

#### **10.4 Dimensional Requirements**

- 1) The maximum height of any new Wireless Communication Facility will not exceed one hundred and fifty (150) feet.
- 2) The height of any Wireless Communication Facility shall not increase the height of any existing structure by more than ten (10) feet unless it is completely camouflaged. The increase in height shall be in scale and proportion to the existing structure.
- 3) Ground mounted Wireless Communication Facilities shall not project higher than twenty (20) feet above the top of the tree canopy and one hundred (100) foot perimeter of the mount shown on the accepted application in an effort to more effectively blend into the surrounding terrain by not projecting above the surrounding tree canopy. The measurement will begin from the cleared area of the accepted application plan. A stamped as-built plan certifying the top of the tree canopy will be required before final approval of the plan. The buffer around the cleared area must be located on the property where the tower is to be located or an easement for the buffer must be put in place to ensure that it remains as represented at the time of approval. This easement could be on abutting properties where the buffer shown on the plan was located.
- 4) All Wireless Communication Facilities, equipment shelters, and fences shall comply with the setback requirements of the district in which they are located, unless otherwise stated. Any Wireless Communication Facilities requiring structures such as shelters, cabinets or other buildings must put crushed gravel, stone, or stone base within the fenced in area and at least fifteen (15) feet beyond the fence on all sides. This restricted area must be free of all vegetation.
- 5) No Wireless Communication Facility, equipment shelter or fence shall be constructed within seventy-five (75) feet of any wetlands.
- 6) In order to ensure public safety, the minimum distance from the base ground-mount of a Wireless Communication Facility to any property line, public road, dwelling, business or recreational use shall be at a minimum, the distance equal to the fall zone. This distance may cross property lines, so long as applicant secures an easement from the affected property owners. The area of the easement shall be shown on all applicable plans

submitted to the town, and the terms of the easement shall be provided as part of the site plan.

### **10.5 Lighting Signage**

- 1) The lighting on the mount of Wireless Communication Facilities shall be allowed only if, and as, required by the Federal Aviation Administration (FAA).
- 2) Any lighting of equipment structures or other facilities on site shall be completely shielded from above and from abutting properties.
- 3) Signage shall be limited to those needed to identify the property and owners, and to warn of danger. Signs warning of danger shall be mounted on the security fence as needed. A sign identifying the owner along with an emergency phone number shall be mounted on the fence by the entrance door. These signs shall not exceed four (4) square feet. No lighting shall be allowed on fences or signs.

### **10.6 Bonding**

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and the amount of security that represents the cost for removal and disposal of towers in the event that the tower is abandoned and the tower owner is incapable or unwilling to remove the tower. The amount of the security shall be based upon the removal cost plus fifteen (15) percent. A professional civil engineer, licensed by the State of New Hampshire, shall determine this amount. The owner of the facility shall provide the Planning Board with a revised removal estimate and structural evaluation every five (5) years from the date of the approval of the site plan. If the cost of removal has increased more than fifteen (15) percent, the owner shall provide additional security in the amount of the increase.

### **10.7 Removal of Abandoned Antennas and Towers**

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to public health and safety. The owner shall notify the town by certified mail of his intent to abandon or discontinue use of this facility, thirty (30) days prior to the intended date of end of service. Upon abandonment or discontinued use, the owner of the facility shall physically remove the personal wireless facility within ninety (90) days. "Physically remove" shall include, but not be limited to the following:

- 1) Removal of antennas, mounts, equipment shelters, foundations and security barriers from the property;
- 2) Properly dispose of the waste materials from the site in accordance with local and state waste disposal regulations; and
- 3) Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain in the after condition.

### **10.8 Failure to Remove**

If the owner fails to voluntarily remove the facility as required under Section 9.7, the Board of Selectmen shall have the authority to declare a default under any security given to ensure such removal, and may seek all other available equitable or legal remedies as the Board deems necessary.

## **ARTICLE 11 - SHORELAND PROTECTION DISTRICT OVERLAY (SDO)**

### **11.1 Purpose and Intent**

The purpose of the Shoreland Protection District is to preserve the overall quality of surface waters, and their adjacent environs, in the Town of Barrington in order to protect the public health and maintain the ecological integrity associated with these resources. More specifically, the intent of the regulations established in this Article are:

- 1) Maintain the quality of surface waters to insure protection of groundwater and drinking water supplies;
- 2) Conserve and protect the aquatic and terrestrial habitat associated with the town's rivers, lakes and ponds;
- 3) Preserve and enhance the aesthetic values associated with shoreline areas in order to maintain the town's rural character; and
- 4) Encourage those uses that can be appropriately located adjacent to the town's surface water resources.

### **11.2 District Defined**

- 1) No structure of any type, including by way of example and not by way of limitation, all buildings, garages, sheds, parking lots and driveways, may be constructed within seventy-five (75) feet of the shoreline of any year-round stream, or any lake or pond over two (2) acres.
- 2) For the Isinglass River this overlay zone shall consist of all properties located within one hundred (100) feet of the mean high water mark of the river, wherein no structure of any type including by way of example and not by way of limitation, all buildings, garages, sheds, parking lots, and driveways, may be constructed.

### **11.3 Exemptions from Regulations**

- 1) Lots of record that existed prior to July 28, 1988 (which was the effective date of the original version of this provision) are exempt from these shoreland setback provisions to the extent that it can be demonstrated that conformance is impossible; however, any structure on such lots must conform as fully as possible.

- 2) Exemptions to the setback provisions of Section 11.2 Paragraph 1) of this Article shall be made for the installation of docks, floats and other structures that are customarily associated with the recreational use of water.

## **ARTICLE 12 - GROUNDWATER PROTECTION DISTRICT OVERLAY (GPO)**

### **12.1 Purpose and Intent**

In the Town of Barrington, where water is drawn almost exclusively from wells, the protection of groundwater and the capability to recharge this water supply are issues of town-wide importance. Therefore, the intent of the Groundwater Protection District is to address the need to protect, preserve, and maintain groundwater resources within the town. The establishment of these regulations is also intended to address the following specific issues.

- 1) To protect the public health and general welfare of the citizens of Barrington;
- 2) To prevent development and land use practices that would contaminate or reduce the recharge of the groundwater supplies and aquifers;
- 3) To provide for future growth and development of the town, in accordance with the Master Plan, by ensuring the future availability of public and private water supplies; and
- 4) To encourage uses that can appropriately and safely be located in the groundwater and aquifer recharge areas.

This Article is not intended to limit business growth within the town but is intended to regulate such development within groundwater protection areas through the implementation of Best Management Practices (BMP). Standards used by the town to determine BMPs shall include, but not be limited to, the sources listed below. This Article refers to, and adopts by reference, the BMP standards contained in the following reports and regulations.

The New Hampshire Code of Administrative Rules, Part Env-Ws 421, Best Management Practices, as amended.

Best Management Practices for Agriculture in New Hampshire, New Hampshire Department of Agriculture, Market and Food (May 2001), and subsequent revisions.

Best Management Practices for Urban Stormwater Runoff, New Hampshire Department of Environmental Service (January 1996), as amended.

### **12.2 District Defined**

The Groundwater Protection District consists of the entire area within the municipal boundaries of the town. However, there are specific portions of the town that have

been identified as having the potential to yield higher quantities of groundwater. Therefore, the regulations presented in this Article are established to protect groundwater quality on a town-wide basis as well as within this specifically defined Stratified Drift Aquifer area. The boundaries of the Stratified Drift Aquifer (SDA) overlay areas are illustrated on the town's Official Zoning Map. The boundaries of the SDA are based on data developed by the United States Geological Survey, in cooperation with the New Hampshire Department of Environmental Services Water Division, as illustrated on the map entitled Drinking Water Resources and Potential Contamination Sources, Barrington, NH (October 2001).

### **12.3 Applicability and Exemptions**

- 1) All non-residential development within the Town of Barrington must comply with the standards set forth in this Article.
- 2) Any business or facility where regulated substances are not stored in containers with a capacity of more than five (5) gallons is exempt from Performance Standards 3 through 6 in of Subsection 12.4.1.
- 3) All private residences are exempt from the provisions of this Article.
- 4) Any uses that existed before March 12, 2002 are exempt from the provisions of this Article. However, any pre-existing use that is changed to another use, expanded, extended, or enlarged shall be required to comply with all applicable standards of this Article, as well as the town's Site Review Regulations.
- 5) Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection and secondary containment in place, is exempt from Performance Standards 3 through 6 in Subsection 12.4.1.
- 6) Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standard 3 through 6 in Subsection 12.4.1.
- 7) Storage and use of office supplies is exempt from Performance Standards 3 through 6 in Subsection 12.4.1.
- 8) Temporary storage of construction materials and fuel for equipment on a site not to exceed six months where they are to be used is exempt from Performance Standards 3 through 6 in Subsection 12.4.1.
- 9) The sale, transportation and use of pesticides as defined in RSA 430:29 XXVI, as amended, are exempt from all provisions of this ordinance.
- 10) Household hazardous waste collection projects regulated under New Hampshire Code of Administrative Rules (Env-Wm 401.03 (b) and 501.01 (b), as amended) are exempt from Performance Standards 3 through 6 in Subsection 12.4.1.

- 11) Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspections.

## **12.4 Performance Standards for Development**

### **12.4.1 Townwide Performance Standards**

The following standards shall apply to all regulated development, as defined in Section 12.3, throughout the entire town.

- 1) Animal manure, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets and Food, (May, 2001), and subsequent revisions.
- 2) All regulated substances stored in containers with a capacity of more than five (5) gallons must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains.
- 3) Facilities where regulated substances are stored must be secured against unauthorized entry by means of doors or gates that are locked when authorized personnel are not present and must be inspected weekly by the facility owner.
- 4) Regulated substances in outdoor storage areas must be protected from exposure to precipitation by some means of coverage, for example a roof. The storage must be located at least 50 feet from surface or storm drains, and outside the radius of any wells.
- 5) Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of 275 gallons or more of regulated substances are stored outdoors on any particular property.
- 6) Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred.

### **12.4.2 Performance Standards within Stratified Drift Aquifer Area Boundaries**

All non-residential land uses located within the boundaries of the Stratified Drift Aquifer are subject to the following performance standards, in addition to those listed in Subsection 12.4.1.

- 1) For any use that will render impervious more than fifteen percent (15%) or more than 2,500 square feet of any lot, whichever is greater, a stormwater management plan shall be prepared based on the standards set forth in Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, Rockingham County

Conservation District (August 1992 or as updated) and Best Management Practices for Urban Stormwater Runoff, New Hampshire Department of Environmental Services (January 1996 or as updated). The Planning Board shall make the determination as to whether or not the stormwater management plan is in compliance with these standards.

- 2) Stormwater management plans prepared pursuant to Paragraph 1) shall demonstrate the stormwater recharged to groundwater will not result in violation the standards set forth in Ambient Groundwater Quality Standards of the Department of Environmental Services (ENV-Ws 410.05 as amended), at the property boundary and additional standards subsequently deemed applicable by the Department.
- 3) Businesses located in the Stratified Drift Aquifer area may be required to perform additional studies, and or provide additional information, as required by the Planning Board.

## **12.5 Maintenance Requirements**

For uses requiring Planning Board approval for any reason, a narrative description of maintenance requirements for structures required to comply with the necessary Performance Standards, shall be recorded so as to run with the land on which such structures are located at the Registry of Deeds for Strafford County. The description so prepared shall comply with the requirements of RSA 478:4A, as amended.

# **ARTICLE 13 - FLOODPLAIN MANAGEMENT DISTRICT OVERLAY (FDO)**

## **13.1 Applicability**

The regulations presented in this Article shall overlay and supplement the regulations of this Ordinance and shall be considered part of the Ordinance for purposes of administration and appeals under state law. If any provision of these differ or appear to conflict with any provision of the Zoning Ordinance or other town ordinances or regulations, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study for Strafford County, New Hampshire, dated May 17, 2005 or as amended, together with the associated Flood Insurance Rate Map Panels number 0190, 0195, 0213, 0260, 0280, 0285, 0290[1], 0295, 0302, 0305, and 0315 of the Town of Barrington [FEMA community #330178] date May 17, 2005 or as amended, which are declared to be a part of this Ordinance and are hereby incorporated by reference.

## **13.2 Standards for Construction**

The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building

sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall comply with the following provisions.

- 1) Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- 2) Constructed with materials resistant to flood damage;
- 3) Constructed by methods and practices that minimize flood damage; and
- 4) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

### **13.3 Water and Sewer System Requirements**

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area, the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

### **13.4 Application Information Required**

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the Building Inspector.

- 1) The as-built elevation, in relation to National Geodetic Vertical Datum (NGVD) of the lowest floor (including the basement).
- 2) Information regarding whether or not such structures contain a basement; if the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.
- 3) Any certification of floodproofing.

The Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

### **13.5 Additional Approvals Required**

The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

### **13.6 Construction in Riverine Location**

- 1) In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Department of Environmental Services and submit copies

of such notification to the Building Inspector, in addition to the copies required by RSA 483-A:1-b, as amended. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetland Board and hearings before the Zoning Board of Adjustment pursuant to Article 14 of this Ordinance.

- 2) The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- 3) The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from federal, state or other sources as criteria for requiring that all developments located in Zone A meet the following floodway requirement.
- 4) No encroachments, including fill, new construction, substantial improvements, and other developments are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.

### **13.7 Determination of Flood Elevation by Building Inspector**

In unnumbered A zones, the Building Inspector shall obtain, review, and reasonably utilize any 100 year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the town (i.e. subdivisions, site approvals). The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in Zone A that the following standards be met:

- 1) That all new construction or substantial improvement of residential structures have the lowest flood (including basement) elevated to or above the 100 year flood elevation, except as provided for in Paragraph 3 of below.
- 2) That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level or together with attendant utility and sanitary facilities, shall comply with the following.
  - (a) Be floodproofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water.
  - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
  - (c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provision of this section.
- 3) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:

- (a) The enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
- (b) The area is not a basement; and
- (c) The area shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall not be higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

### **13.8 Requirements for Recreational Vehicles and Manufactured Housing**

Recreational vehicles placed on sites within Zones A1-30, AH, and AE shall either be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” in Paragraph (c) (6) of Section 60.3.

All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100 year flood elevation; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces; provided, however, that manufactured housing units located in existing, unimproved, undamaged portions of mobile home parks need only be elevated three feet above grade.

### **13.9 Appeals to the Zoning Board of Adjustment**

- 1) Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- 2) If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing, in addition to the usual variance standard under state law, that the following conditions have been met.
  - (a) That the variance will not result in increased flood heights, additional threat to public safety, or extraordinary public expense.

- (b) That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
  - (c) That the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 3) The Zoning Board of Adjustment shall notify the applicant in writing that:
  - (a) The issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage.
  - (b) Such construction below the base flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions.
- 4) The community shall maintain a record of all variance actions, including their justification for their issuance, and report such variance issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

## **ARTICLE 14 - IMPACT FEES FOR PUBLIC CAPITAL FACILITIES**

### **14.1 Authority and Applicability**

- 1) This Article is authorized by New Hampshire RSA 674:21 as an innovative land use control. The administration of this Article shall be the responsibility of the Planning Board. This Article, as well as regulations and studies adopted by the Planning Board consistent with and in furtherance of this Article, shall govern the assessment of impact fees imposed upon new development in order to meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town of Barrington or the Barrington School District.
- 2) The public facilities for which impact fees may be assessed in Barrington may include and are limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewer; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreation facilities not including public open space.
- 3) Prior to assessing an impact fee for one or more of the public facilities enumerated above, the Planning Board shall have adopted such studies or methodologies and related fee schedules that provide for a process or method of calculating the proportionate share of capital improvement costs that are attributable to new development. Such calculations shall

reasonably reflect the capital cost associated with the increased demand placed on capital facility capacity by new development.

- 4) The following regulations shall govern the assessment of impact fees for public capital facilities in order to accommodate increased demand on the capacity of these facilities due to new development.

## **14.2 Findings**

The Town of Barrington hereby finds that:

- 1) The Town of Barrington is responsible for and committed to the provision of public facilities and services at standards determined by the town to be necessary to support development in a manner that protects and promotes the public health, safety and welfare.
- 2) Capital facilities have been and will be provided by the town utilizing funds allocated through the Capital Improvements Program, which has been adopted and regularly updated by the Planning Board.
- 3) An impact fee ordinance for capital facilities is consistent with the goals and objectives of the Master Plan and the Capital Improvements Program of the Town of Barrington.
- 4) New development in Barrington will create the need for the construction, equipping, or expansion of public capital facilities in order to provide adequate facilities and services for its residents.
- 5) Impact fees may be used to assess an equitable share of the growth-related cost of public facility capacity to new development in proportion to the facility demands created by that development.
- 6) In the absence of impact fees, anticipated residential and non-residential growth and associated capital improvement costs could necessitate an excessive expenditure of public funds in order to maintain adequate facility standards and to promote and protect the public health, safety, and welfare.
- 7) Impact fees assessed pursuant to this Article shall not exceed the costs of:
  - (a) Providing additional public capital facilities necessitated by new development in Barrington; and/or
  - (b) Compensating the Town of Barrington or the Barrington School District for facility capacity that it provided in anticipation of new development in Barrington.

## **14.3 Computation of Impact Fees**

- 1) The amount of each impact fee shall be assessed in accordance with written procedures or methodologies adopted and amended by the Planning Board for the purpose of capital facility impact fee assessment in Barrington. These methodologies shall set forth the assumptions and formulas comprising the basis for impact fee assessment, and shall include documentation of the procedures and calculations used to establish impact

fee schedules. The amount of any impact fee shall be computed based on the municipal capital improvement cost of providing adequate facility capacity to serve new development. Such documentation shall be available for public inspection at the Office of the Selectmen of the Town of Barrington.

- 2) In the case of new development created by the conversion or modification of an existing use, the impact fee assessed shall be computed based upon the net increase in the impact fee assessment for the new use as compared to the highest impact fee that was, or would have been, assessed for the previous use in existence on or after the effective date of this Article.

#### **14.4 Assessment of Impact Fees**

- 1) Impact fees shall be assessed on new development to compensate the Town of Barrington for the proportional share of the public capital facility costs generated by that development, including those public capital facility costs that were incurred in anticipation of new development.
- 2) Any person who seeks a permit for new development, including permits for new or modified service connections to the public water system or public wastewater disposal system that would increase the demand on the capacity of those systems, is hereby required to pay the public capital facility impact fees authorized under this Article in the manner set forth herein, except where all or part of the fees are waived in accordance with the criteria for waivers established in this Article.
- 3) The Planning Board may agree to accept in lieu of a cash payment of the impact fee: a proposed contribution of real property; or, facility improvements of equivalent value and utility to the public. Prior to acting on a proposed contribution under this provision, the Planning Board shall submit a copy of the proposal to the Board of Selectmen for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment.

#### **14.5 Waivers**

The Planning Board may grant full or partial waivers of impact fees where the Board finds that one or more of the following criteria are met with respect to the particular capital facilities for which impact fees are normally assessed.

- 1) A person may request a full or partial waiver of school facility impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 62 or over or to households with at least one person age 55 and over as applicable, in a development that is maintained in compliance with the provisions of RSA 354-A:15, Housing For Older Persons. The Planning Board may waive school impact fee assessments on

age restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy for a period of at least 20 years.

- 2) The Planning Board may waive an impact fee assessment for a particular capital facility where it finds that the subject property has previously been assessed for its proportionate share of public capital facility impacts, or has contributed payments or constructed capital facility capacity improvements equivalent in value to the dollar amount of the fee(s) waived.
- 3) The Planning Board may waive an impact fee assessment where it finds that, due to conditions specific to a development agreement, or other written conditions or lawful restrictions applicable to the subject property, the development will not increase the demand on the capacity of the capital facility or system for which the impact fee is being assessed.
- 4) A fee-payer may request a full or partial waiver of the amount of the impact fee for a particular development based on the results of an independent study of the demand on capital facility capacity and related costs attributable to that development. In support of such request, the fee-payer shall prepare and submit to the Planning Board an independent fee calculation or other relevant study and supporting documentation of the capital facility impact of the proposed development. The independent calculation or study shall set forth the specific reasons for departing from the methodologies and schedules adopted by the town. The Planning Board shall review such study and render its decision. All costs incurred by the town for the review of such study, including consultant and counsel fees, shall be paid by the fee-payer.

#### **14.6 Payment of Impact Fees**

- 1) No permit shall be issued for new development as defined in this Article until the impact fee has been assessed by the Building Inspector. The Building Inspector shall not issue a certificate of occupancy for the development on which the fee is assessed until the impact fee has been paid in full, or the impact fee has been waived in full by the Planning Board pursuant to the provisions of Subsection F. The Planning Board may accept as payment prior to issuance of a building permit an irrevocable letter of credit or other acceptable payment guarantee.
- 2) Where off-site capital improvements have been constructed, or where such improvements will be constructed simultaneously with new development, and where the town has appropriated necessary funds to cover such portions of the work for which it will be responsible, the Building Inspector may collect the impact fee for such capital facilities at the time a building permit or a permit to connect to the public water or public wastewater system is issued.

#### **14.7 Appeals from this Article**

- 1) A party aggrieved by a decision made by the Building Inspector pursuant to the assessment or collection of impact fees authorized by this Article may appeal such decision to the Zoning Board of Adjustment as provided by RSA 676:5, as amended.
- 2) The decision of the Zoning Board of Adjustment may be appealed to the Strafford County Superior Court as provided by RSA 677:2-14.
- 3) A party aggrieved by a decision of the Planning Board under this Article may appeal such decision to the Strafford County Superior Court as provided by RSA 676:5, III and RSA 677:15, as amended.

#### **14.8 Administration of Funds Collected**

- 1) All funds collected shall be properly identified and promptly transferred for deposit into separate impact fee accounts for each type of public capital facility for which impact fees are assessed. Each impact fee account shall be a non-lapsing special revenue fund account and under no circumstances shall such revenues accrue in the General Fund. The Town Treasurer shall have custody of all accounts, and shall pay out same upon approved vouchers through the accounts payable system.
- 2) The Treasurer shall record all fees paid by date of payment, name of the person making payment, and tax map and lot reference number, and shall maintain an updated record of the current ownership and tax map and lot reference number of properties for which fees have been paid under this Article for each permit so affected for a period of at least nine (9) years from the date of receipt of the impact fee payment associated with the issuance of each permit.
- 3) Impact fees collected may be spent from time to time by order of the Board of Selectmen and shall be used solely for the reimbursement of the Town of Barrington School District in the case of school impact fees, for the cost of the public capital improvements for which they were collected, or to recoup the cost of capital improvements made by the town or the Barrington School District in anticipation of the needs for which the impact fee was collected.
- 4) In the event that bonds or similar debt instruments have been or will be issued by the Town of Barrington or the Barrington School District for the funding of capacity-related improvements, impact fees from the appropriate related capital facility impact fee accounts may be applied to pay debt service on such bonds or similar debt instruments.
- 5) At the end of each fiscal year, the Treasurer shall make a report to the Board of Selectmen and Planning Board, giving a particular account of all impact fee transactions during the year.

#### **14.9 Use of Funds**

- 1) Funds withdrawn from the capital facility impact fee accounts shall be used solely for the purpose of acquiring, constructing, equipping, or making improvements to public capital facilities to increase their capacity, or to recoup the cost of such capacity improvements.
- 2) Effective upon passage of this Article, the annual updates of the Barrington Capital Improvement program shall contain a procedure for assigning funds, including any accrued interest, from all of the public capital facility accounts to specific capital improvement projects, related expenditures or debt service.
- 3) Impact fee monies, including any accrued interest, that are not assigned in any fiscal period shall be retained within the same public capital facilities impact fee account until the next fiscal period except where a refund is due.
- 4) Funds may be used to provide refunds consistent with the provisions of this Article.

#### **14.10 Refund of Fees Paid**

- 1) The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest where:
  - (a) The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the full and final payment of the fee. If any capital improvement or capital improvement program for which an impact fee is collected has been commenced either to, or within six years from the date of final collection of an impact fee, that impact fee payment shall be deemed to be encumbered and legally bound to be spent for said capital improvement or capital improvement program and shall not be refunded, even if it is not fully expended within the six year period; or
  - (b) Whenever the impact fee calculation has been predicted upon the town, or in the case of school impact fees the Barrington School District, bearing some share of the cost of the capital improvement and the town, or in the case of school impact fees the Barrington School District, within the period of (6) years from the date of the full and final payment of such fee, has failed to appropriate any of its share of related capital improvement costs.
- 2) The Board of Selectmen shall provide all owners of record who are due a refund, written notice of the amount due, including accrued interest, if any, and shall promptly cause said refund to be made.

#### **14.11 Additional Assessments**

Payment of the impact fee under this Article does not restrict the town or the Planning Board from requiring other payments from the fee-payer, including such payments

relating to the cost of the extension of water and sewer mains or the construction of roads or streets or other infrastructure and public capital facilities specifically benefiting the development as required by the subdivision or site plan review regulations, as authorized under RSA 674:21, V(j), as amended.

#### **14.12 Scattered or Premature Development**

Nothing in this Article shall be construed so as to limit the existing authority of the Barrington Planning Board to deny new proposed development that is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Barrington Zoning Ordinance, or the Barrington Planning Board Site Review Regulations or Subdivision Regulations, or which may otherwise be lawfully denied.

#### **14.13 Review and Change in Method of Assessment**

The methodologies adopted by the Planning Board for impact fee assessment and the related fee schedules, shall be reviewed periodically and amended as necessary by the Planning Board. Such review shall take place not more than five years from the initial adoption of this Article, nor more frequently than annually, except as required to correct errors or inconsistencies in the assessment formula. Any proposal for changes in the impact fee assessment methodology or the associated fee schedule shall be submitted to the Board of Selectmen for its review and comment prior to final consideration of the proposed changes by the Planning Board. The review by the Planning Board and Board of Selectmen may result in recommended changes or adjustments to the methodology and related fees based on the most recent data as may be available. No change in the methodology or in the impact fee schedules shall be adopted by the Planning Board until it shall have been the subject of a public hearing noticed in accordance with RSA 675:7.

### **ARTICLE 15 - ZONING ADMINISTRATION**

#### **15.1 Zoning Board of Adjustment**

There shall be a Zoning Board of Adjustment (ZBA) consisting of five (5) members who are residents of the town and appointed by the Board of Selectmen. The Selectmen may also appoint up to three (3) alternate members of the ZBA. Members and alternates in office on the effective date of this section shall continue in office. If for any reason a member of the ZBA vacates his/her position such vacancy shall be filled for the remainder of the unexpired term by appointment of the Selectmen. Members and alternates shall be removable, after a public hearing, for inefficiency, neglect of duty or malfeasance in office upon vote of the Board of Selectmen, which shall make written findings of fact and cause the same to be filed with the Town Clerk.

##### **15.1.1 Meetings**

Meetings of the Board shall be held at least once a month and at such other times as the Board may determine, or upon call of the chairman. All meetings shall be

open to the public. The board shall adopt its own rules of procedure after a public hearing duly advertised in a local news source, and shall keep a record of its proceedings, showing the vote of each member on each question or if absent or failing to vote, and shall keep records of its examinations and other official actions. Every rule or regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the board shall immediately be filed in the office of the Zoning Administrator and become a public record. The Board shall file with the Town Clerk, for distribution as necessary, a complete record of the minutes of their meetings and public hearings. Included in the minutes shall be the reasons for the granting or denying of a request for a variance or special exception, together with the vote of each member on each item on the agenda.

### **15.1.2 Powers and Duties**

The ZBA shall have the following powers and duties:

- 1) To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by an Administrative Officer in the enforcement of this Ordinance except for sections that provide for the appeal, administration, or enforcement by another person or board as designated within that section.
- 2) To hear and decide special exceptions to the terms of this Ordinance upon which the Board is required to pass under this article. In granting a special exception the Board shall apply the standards set forth in Section 15.2 of this Ordinance, unless otherwise provided herein.
- 3) To authorize, upon appeal in specific cases, such variances from the terms of this article as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this article will result in unnecessary hardship, and so that the spirit of this article shall be observed and substantial justice done.

### **15.2 Requirements for Granting Special Exceptions**

The ZBA shall apply the following standards when considering the granting of a special exception.

- 1) No detriment to property values in the vicinity of the proposed development will result on account of: the location or scale of buildings, structures, parking areas, or other access ways; the emission of odors, smoke, gas, dust, noise, glare, heat, vibration, or other pollutants; or unsightly outdoor storage of equipment, vehicles, or other materials.
- 2) No hazard will be caused to the public or adjacent property on account of potential fire, explosion, or release of toxic materials.
- 3) No creation of a traffic safety hazard or substantial traffic congestion will result in the vicinity of the proposed development.

- 4) No excessive demand on municipal services and facilities, including, but not limited to waste disposal, police and fire protection, and schools.
- 5) The proposed use will not result in the degradation of existing surface and groundwater quality standards, nor will it have adverse effects on the natural functions of wetlands on the site that would result in the loss of significant habitat or flood control protection.

In addition to the guiding principles specified above, the ZBA may condition the granting of a special exception upon more stringent standards if the Board determines that such conditions are necessary to protect the health and welfare of the town and its residents. Such conditions may include the following:

- 1) Front, side, or rear yards in excess of the minimum requirements of this Ordinance.
- 2) Screening of the premises from the street or adjacent property by walls, fences, or other devices.
- 3) Limitations on the size of buildings and other structures more stringent than minimum or maximum requirements of this Ordinance.
- 4) Limitations on the number of occupants and methods and times of operation.
- 5) Regulation of the design and location of access drives, sidewalks, and other traffic features.
- 6) Location and amount of parking and loading spaces in excess of existing standards.
- 7) Regulation of the number, size, and lighting of signs in excess of existing standards.

#### **15.2.2 Criteria for Granting Variances**

In accordance with state statute, the Zoning Board of Adjustment is authorized to grant variances from the terms of this Ordinance if the request for said variance conforms to the provisions specified in Subsection 15.1.2 Paragraph 3) above. In addition to these provisions the Board shall also be guided by the following specific criteria in determining whether the granting of a variance is appropriate under the terms of this Ordinance.

The Zoning Board of Adjustment shall, when considering a request for a variance, make findings of fact that consider the following factors.

- 1) Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.
- 2) Granting the variance would be consistent with the spirit of the Ordinance.
- 3) Granting the variance will not result in diminution of surrounding property values.

- 4) Granting of the variance would do substantial justice.
- 5) Granting of the variance would not be contrary to the public interest.

### **15.3 Administration and Enforcement**

#### **15.3.1 Zoning Administrator**

This Ordinance shall be administered by a Zoning Administrator, appointed by the Selectmen for such a term, or for an indefinite term, as the Selectmen may decide. The Zoning Administrator may not be a member of the Planning Board, the Zoning Board of Adjustment, the Conservation Commission or any other local land use board. All plans for the use or development of land shall be referred to the Zoning Administrator. The Zoning Administrator shall determine in the first instance, in so far as practical, whether or not the proposed use or development complies with the Zoning Ordinance. The Zoning Administrator shall also address other issues regarding the Zoning Ordinance as may be put to the Zoning Administrator from time to time. The decisions of the Zoning Administrator may be appealed to the Zoning Board of Adjustment.

#### **15.3.2 Enforcement of the Zoning Ordinance**

The Selectmen shall have the authority to enforce the provisions of this Zoning Ordinance. The Selectmen may delegate such authority to a Code Enforcement Officer. The Code Enforcement Officer may also serve as the Building Inspector, the Zoning Administrator or other like officer, but the Code Enforcement Officer may not be a member of any local land use board. This Ordinance may be enforced through all statutory or other lawful means.

### **15.4 Building Permit and Certificate of Occupancy**

#### **15.4.1 Building Permit Required**

No building or structure shall be constructed, reconstructed, altered, or relocated; nor shall the use of any building or structure be substantially changed; nor shall any excavation be commenced under the provisions of this Ordinance without a duly authorized building permit issued by the Building Inspector. Said permit shall be issued only if it is determined that the proposed construction is in compliance with all applicable town and state codes and regulations which have been adopted for the purpose of regulating such activities.

#### **15.4.2 Certificate of Occupancy Required**

No person shall use or permit the use of any building, structure or premises or part thereof, hereafter erected, relocated, altered, repaired, converted or extended until a certificate of occupancy is issued by the Building Inspector. The purpose of a certificate of occupancy is to give the Building Inspector a mechanism by which he/she can verify conformance with provisions of this Ordinance, the building permit and other requisite approvals related thereto. Application for a certificate of occupancy shall be made on standard forms provided by the Building

Inspector. Application shall be required at such time as when the applicant has complied with the provisions of this Ordinance, the building permit and/or any other requisite town or state approval related thereto.

### **15.5 Violations and Penalties**

Any person who violates any provisions of this Ordinance, or any provision or specification of any decision issued by any local administrator or land use board acting in an authorized manner, shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person, and shall be subject to a civil penalty not to exceed two hundred and seventy-five dollars (\$275) for the first offense and five hundred and fifty dollars (\$550) for subsequent offenses for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the town that the violator is in violation, whichever is earlier.

## **ARTICLE 16 - DEFINITIONS**

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning. Some of the definitions included in this Article indicate that they are primarily intended to explain the meaning of a term related to a specific Article (e.g. "for the purposes of Floodplain Management Regulations") within this Ordinance. However, these terms may also be applied to the entire Ordinance if no other separate, or alternative definition is provided.

**Abandonment** The discontinuance of a use or structure for a continuous period of at least one (1) year in any Residential Zoning district, or at least two (2) years in any Nonresidential Zoning District.

**Abut or Abutting** Adjoining or directly across the street or a stream.

**Abutter** As defined by New Hampshire State statute an abutter is any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form or ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing that adjoins or is directly across the street or stream from the land under consideration by the local land use board.

**Accessory Apartment** A dwelling unit located above the first floor of the same building containing a commercial use(s) on the ground floor.

**Accessory Building** A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and that is located on the same lot as that occupied by the principal building.

**Accessory Use** A structure or use that is subordinate in purpose to the principal use; contributes to the comfort, convenience, or necessity of the principal use; and, is located on the same lot as the principal use.

**Active and Substantial Development or Building** Shall mean the expenditure of at least twenty-five percent (25%) of the infrastructure costs required for a development proposal, as indicated by a subdivision or site plan approved by the Planning Board, within twelve (12) months of said approval, where the approved plans have been properly recorded at the Registry of Deeds. Infrastructure shall mean in this instance, the construction of roads, storm drains, water and sewer facilities, or parking lots. Compliance with this definition shall also necessitate that a bond or other security to cover the costs of said infrastructure requirements has been posted with the town prior to the beginning of construction, if required as a condition for subdivision or site plan approval.

**Active Open Space** Any park and recreational facility that is not dependent upon a specific environmental or natural resource, which is developed with recreation and support facilities that can be provided anywhere for the convenience of the user.

**Agricultural Use** A parcel that is used for the production of farm crops such as vegetables, fruit trees, grain, and their storage, and which applies best management practices to said activities. It shall also include animal and poultry husbandry but not the slaughtering or processing of animals or animal byproducts.

**Alley** A minor right-of-way not intended to provide the primary means of access to the abutting lots, which is used for vehicular service access to the back or sides of properties otherwise abutting on a public street.

**Alteration** Any change or rearrangement in structural parts or exit facilities; or an enlargement, whether by extending on a side or by increasing in height.

**Antenna** Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

**Application for Development Approval** Any application for approval of a building permit, certificate of occupancy, rezoning, conditional use permit, variance, special exception, subdivision plat, site plan, or any other permit or decision required by this Ordinance.

**Aquifer** A geologic formation composed of significant amounts of potentially recoverable water.

**Area of Shallow Flooding** (for purposes of Floodplain Management Regulations) A designated A0, AH, or V0 zone on the Flood Insurance Rate Map (FIRM) with a one percent or greater annual possibility of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard** (for purposes of Floodplain Management Regulations) The land in the floodplain within the Town of Barrington subject to a one percent or

greater possibility of flooding in any given year. The area is designated as zone A on the FHBM and is designated on the FIRM as zones A, AH or A1-30.

**Art Gallery** A public or private facility that is operated as a repository or a collection of works of individual art pieces not mass produced consisting of one (1) or more of the following: paintings, drawings, etchings or sculptures; may include the sale of related objects and services.

**Attached Building** A building having any portion of one (1) or more walls in common with adjoining buildings.

**Automated Banking Facility (ATM)** An automated device, which is operated by the customer, that performs banking or financial transactions.

**Awning** A shelter of canvas, metal or similar material extending over a doorway or window to provide shelter from natural elements.

**Bank** A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities. Walk-in and drive-through services to consumers are generally provided on site. In some zoning districts, drive-through services may be restricted or prohibited.

**Base Flood** (for purposes of Floodplain Management Regulations) The flood having a one percent possibility of being equaled or exceeded in any given year.

**Basement** That portion of a building that is partly or completely below grade.

**Bed and Breakfast** An lodging business, generally located in a single-family home, that offers rooms and/or detached guest houses for rent on a temporary basis, which may also provide meals to said lodgers in a communal setting.

**Best Management Practices (BMPs)** The combination of conservation measures, structures, or management practices that reduces or avoids adverse impacts of development to the land, water, or air. When referring to forestry, Best Management Practices (BMPs) are defined in a publication entitled Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire prepared by the NH Department of Resources and Economic Development. Another source of technical information and standards used for performance guidance is Stormwater Management and Erosion and Sediment Control for Urban and Developing Areas in New Hampshire, NHDES and RCCD, 1992, as amended.

**Body Piercing Studio** An establishment that offers as a service to the public the creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

**Bog** A wetland area distinguished by peat deposit, poor drainage and/or highly acidic soil and/or water conditions.

**Buffer** An area of land separating distinct zoning districts or land uses that acts to soften or mitigate the effects of one land use on the other. The term greenbelt refers to a specific type of buffer area.

**Building** A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property.

**Building Area** The aggregate of the maximum horizontal cross-section area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies and terraces, expressed as a percentage of total lot area.

**Building Envelope** The area of a newly created subdivided lot eligible for the placement of dwelling units or other structures.

**Building Height** Notwithstanding more stringent requirements of this chapter, the height of a building or structure shall be the vertical distance measured from the highest point of the building to the average elevation of the corners of the building at the finished grade. The highest point of the building shall be either the top of the parapet or coping of a flat-roofed building, or the ridge of a sloping roof. No occupied part of any building shall be constructed above the permitted height; however, unoccupied building features such as church spires and towers, flagpoles, antennas, chimneys, flues and vents, cooling towers, enclosures for tanks serving the roof including any vertical or sloped screen walls may extend a maximum of twenty-eight (28) feet above the permitted height of the building.

**Business Offices** Business offices include all types of offices, other than professional offices as defined elsewhere in this ordinance, which are defined as a room, or group of rooms used for conducting the affairs of a business, service industry, or government entity.

**Business Support Services** Establishments engaged in the sale, rental, or repair of office equipment, supplies, and materials, or the provision of services used by office, professional, and service establishments. Typical uses include office equipment and supply firms, small business machine or computer repair shops, convenience printing and copying establishments, or hotel equipment and supply firms.

**Camper** A temporary dwelling for travel, recreation and vacation use including:

- 1) Travel trailer: A vehicle that is towed, identified by the manufacturer as a travel trailer, built on a chassis eight (8) feet or less wide and thirty (30) feet or less in length and designed to move on a highway;
- 2) Pick-up coach: A structure designed to be mounted on a truck chassis or cut-down car;
- 3) Motor home: A self-propelled vehicle with a dwelling constructed as an integral part of the vehicle; or
- 4) Camping trailer: A canvas or other foldable structure built on a chassis with wheels and designed to move on the highway.

**Capacity** The maximum demand that can be accommodated by a Public Facility or service without exceeding the Adopted Level of Service.

**Cellar** A portion of a building, partly or entirely below grade, that has more than one-half of its height measured from finished floor to finished ceiling, below the average established finished grade of the ground adjoining the building. A cellar is not deemed a story. See also Basement.

**Certificate of Occupancy** A statement signed by the Administrative Officer, setting forth either that a building or structure complies with this Chapter or that a building, structure or parcel of land may lawfully be employed for specified uses, or both.

**Cluster Subdivision** See "Conservation Subdivision."

**Collector Street** A street that collects traffic from local roads and channels it into the arterial system, and provides land access and traffic circulation within residential neighborhoods, commercial and industrial area.

**Co-location** Locating additional antennas on an existing communications tower or other site where one or more antennas are already present.

**Commercial Recreation Facility** A privately owned and/or operated land use, either indoors or outdoors, where the main purpose is to provide the public with recreation, amusement or entertainment activities for a fee. Examples of such facilities include skating rinks, water slides, gymnasiums, sports fields, miniature golf, driving ranges, swimming pools, race tracks, and stadiums.

**Commercial Wireless Telecommunication Services** Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

**Common Open Space** Active or passive open space specifically reserved for common use and enjoyment by a Homeowner's Association, and restricted only for such recreational and conservation uses as tot lot, park, playground, playfield, swimming, golf course and conservation area.

**Common Ownership** Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockbroker, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

**Communications Tower** Any ground or roof mounted pole, spire, structure, or combination thereof higher than fifty (50) feet free standing or twenty (20) feet from the tower's point of contact with a roof or water tank, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

**Communications Tower, Multi-User** A tower to which is attached the antennas of more than one (1) commercial wireless telecommunication service provider or governmental entity.

**Communications Tower, Single-User** A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this Ordinance.

**Community Water Supply System** Means a community water system as defined in RSA 485:1-a, I, as amended, namely "a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents."

**Conference Center** A facility that provides meeting halls, trade centers, merchandise marts, or convention centers for training and other gatherings for large numbers of people for similar functions; may be developed separately or in combination with another permitted use.

**Conservation Easement** As prescribed in New Hampshire RSA 79-B:2 a Conservation Easement means a permanent restriction of open space land by deed granted in perpetuity, and further, as defined by RSA 477:45, I, to a federal, state, county, local or other government body, or to a charitable, educational, or other nonprofit corporation established for the purposes of natural resource conservation and as further defined in RSA 79-B:2, X. ...." RSA 477:45 provides: "I. A conservation restriction shall mean a right to prohibit or require, a limitation upon, or an obligation to perform, acts on or with respect to, or uses of, a land or water area, whether stated in the form of a restriction, easement, covenant or condition, in any deed, will, or other instrument executed by or on

behalf of the owner of the area or in any order of taking, which right, limitation, or obligation is appropriate to retaining or maintaining such land or water area, including improvements thereon, predominantly in its natural, scenic, or open condition, or in agricultural, farming, open space or forest use, or in any other use or condition consistent with the protection of environmental quality. II. A preservation restriction shall mean a right to prohibit or require, a limitation upon, or an obligation to perform, acts on or with respect to, or uses of, a structure or site historically significant for its architecture, archaeology or associations, whether stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the structure or site or in any order of taking, which right, limitation or obligation is appropriate to the preservation or restoration of such structure or site. III. "Agricultural preservation restriction means the restraint placed on the development rights of agricultural land whether stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land which is appropriate to retaining land or water areas predominantly in their agricultural use, to prohibit or limit construction or placement of buildings except those used for agricultural purposes or for dwellings used for family living by the land owner, his immediate family or employees; excavation, dredging or removal of loam, sod, peat, gravel, soil, rock or other mineral substance in such a manner as to adversely affect the land's future agricultural potential; or other acts or uses detrimental to such retention of the land for agricultural use."

**Conservation Subdivision** A subdivision wherein single-family dwellings are laid out on lots of reduced dimensions, or in clustered groupings, in order to preserve open space on the parcel, as provided for under the terms of this Ordinance.

**Contiguous** The term contiguous shall be construed to mean areas that form or represent a single unit of similar features or features that are touching at a common property line or other type of boundary.

**Convenience Store with Gas Pumps** Any retail establishment whose principal activity is offering for sale prepackaged food products, household items, newspapers and magazines, and freshly prepared foods, such as salads or sandwiches, for off-site consumption, which also offers the sale of gasoline from pumps for automobiles.

**Corner Lot** A lot at the point of intersection of, and abutting on, two (2) or more intersecting streets, the interior angle of intersection of the street lot lines or, in case of a curved street, extended lot lines, being not more than one hundred thirty-five (135) degrees. Each street frontage shall be considered a front yard.

**Day Care** An occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for 7 to 12 children from one or more unrelated families. The 12 children shall include all children related to the caregiver and any foster children residing in the home, except children who are 10 years of age or older.

**Density** The number of dwelling units within a designated land area. For purposes of this Ordinance, "density" means gross density unless otherwise provided.

**Density, Gross** The number of dwelling units divided by the total land area, stated as dwelling units per gross acre.

**Density, Maximum** The maximum number of permitted density units (e.g. dwelling units or building square footage) where indicated in this Ordinance, stated as Net or Gross Density unless otherwise indicated.

**Density, Net** The maximum number of permitted dwelling units permitted in a Conservation Subdivision based on the net developable area of a tract of land as determined by the methodology set forth in this Ordinance.

**Designated Agent** The person designated by the Selectmen to carry out its inspection and enforcement role with respect to this Zoning Ordinance.

**Detached Building** A building having open space on all sides, and that is not an attached building.

**Development** (for purposes of Floodplain Management Regulations) means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, fillings, grading, paving, excavations, or drillings.

**Development** Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations. "Development" includes the carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, or the Subdivision of land. The following activities or uses shall be considered "development," as defined herein.

- 1) A reconstruction, alteration of the size, or material change in the external appearance of a structure on land;
- 2) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land;
- 3) Alteration of a shore or bank of a river, stream, lake, or pond;
- 4) Commencement of grading, drilling, or excavation on a parcel of land, except to obtain soil samples;
- 5) Demolition of a structure; and
- 6) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

**Development, New** (for purposes of Impact Fee Regulations) An activity that results in any of the following.

- 1) The creation of a new dwelling unit or units;
- 2) The conversion of a legally existing use, or additions thereto, that would result in a net increase in the number of dwelling units;
- 3) Construction of a new use that creates a net increase in the demand on public capital facilities that are the subject of impact fee assessment methodologies adopted by the Planning Board; and/or
- 4) The conversion of an existing use to another use if such change creates a net increase in the demand on public capital facilities that are the subject of impact fee assessment methodologies adopted by the Planning Board.

New development shall not include the replacement of an existing mobile home, or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in its size, density or type of use, and where there is no net increase in demand on the capital facilities of the Town of Barrington.

**Dimensional Nonconformity** A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing

building or buildings and other buildings or lot lines does not conform to the regulations applicable to the zoning district in which the property is located.

**Disturbed Area** An area where the natural vegetation has been removed exposing the underlying soil, or vegetation has been covered.

**Driveway** A private, vehicular access connecting a house, carport, parking area, garage, or other buildings to the street.

**Duplex** See Dwelling, Two-family.

**Dwelling (or Dwelling Unit)** One (1) or more rooms providing complete living facilities for one (1) family, including kitchen facilities or equipment for cooking or provisions for the same, and including room or rooms for living, sleeping, bathing and eating. A recreational vehicle, as defined in this Article, shall not be construed as a dwelling unit.

**Dwelling, Single-Family** A building or structure containing one dwelling unit.

**Dwelling, Two-Family (duplex)** A detached structure designed for and occupied exclusively as the residence of not more than two (2) families, each living as an independent housekeeping unit.

**Excavation Operation** Means the use of any land area for the taking of earth materials including sand, gravel, rock, soil or construction aggregate produced by quarrying, crushing, or any other mining activity

**Fall Zone**

- 1) For a Lattice Tower the fall zone is the area on the ground from the base of a ground mounted lattice tower that forms a circle with a diameter equal to one half of the height of the facility, including any antennas or other appurtenances. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.
- 2) For a Guyed Tower the fall zone is the minimum distance from a guyed tower to any property line, public road, dwelling, business, or recreational use shall be at a minimum, the height of the tower and antennas plus ten (10) feet.

**Farm** See "Agriculture Use"

**Feepayer** (for purposes of Impact Fee Regulations) The applicant for the issuance of a permit that would create new development as defined in this Article.

**Fence** This word shall be given its common meaning, except that it shall not apply to temporary snow fences or to wire agricultural fences.

**Flood Insurance Rate Map (FIRM)** (for purposes of Floodplain Management Regulations) The official maps incorporated as part of this Ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Barrington.

**Flood or Flooding** (for purposes of Floodplain Management Regulations) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; or the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Proofing** Any combination of structural and non structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

**Floodplain or Flood Prone Area** (for purposes of Floodplain Management Regulations) Any land area, as illustrated on the town's FIRM maps, susceptible to being inundated by water from any source (see definition of "Flooding").

**Floodway** See "Regulatory Floodway".

**Floor Area Ratio (FAR)** The ratio of gross building area to the lot area on which the building(s) are located. The ratio is calculated by dividing the gross area of said buildings by said lot area.

**Fraternal or Social Organization** A building or land used for the activities of an association of persons for the promotion of some nonprofit common objective, such as literature, science, politics, and good fellowship (not accessory to, or operated as, or in connection with a tavern, eating place, or other place open to the public), which meets periodically and is limited to members.

**Frontage** The length of a lot line abutting a Class V highway or other road upon which buildings may be built lawfully.

**Functionally Dependent Use** (for purposes of Floodplain Management Regulations) A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long term storage or related manufacturing facilities.

**Garage** A building or structure or a portion thereof, the principal use of which is or may be to store, house, keep, repair or service a motor vehicle or vehicles containing a flammable fluid or other propellant in its fuel storage tank. This does not include a new car salesroom.

**Garage, Private** A garage for housing motor vehicles only, with a capacity of not more than four (4) vehicles.

**Garage, Public** Any garage not included in the definition of a private garage.

**Gasoline Service Station** A retail establishment engaged in the sale of automotive fuel, motor oil, and/or services, that provide for the routine maintenance of automobiles. Such services may include washing, polishing, greasing, emissions testing, tire repair, wheel alignment, brake repair, muffler replacement, engine tune-up, flushing of radiators, servicing of air conditioners, and other activities of minor repair and servicing.

**Glare** Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

**Grade Plane** A reference plane representing the average of finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and a point six feet from the building, or between the building and the lot line, whichever point is closer.

**Gross Floor Area** (for purposes of Impact Fee Regulations) The sum of the areas of all floors of main and accessory buildings on the lot as measured to the outside surfaces of the exterior walls. The gross floor area shall include basements, lobbies, and stair openings, elevator shafts and storage. The gross floor area shall exclude open wells (atriums), mechanical rooms, crawl spaces and attics without floors, attics used only for mechanical services, porches, balconies and open-sided roofed-over areas.

**Gross Floor Area** The sum of the gross horizontal area or the several floors of a building and its accessory buildings on the same lot, measured from the exterior faces of

the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or for commercial and/or industrial use, or malls within a shopping center utilized purely for pedestrian circulation and/or decorative purposes between individual shops of the center.

**Groundwater** Subsurface water that occurs beneath the water table in soils and geologic formations.

**Guyed Towers** A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

**Habitable Attic** The habitable space between the rafters of a pitched roof and the next floor below provided that the spring point of the rafters is no higher than thirty inches (30") from the subfloor.

**Habitable Space** Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and other similar areas are not considered habitable space.

**Health Club** A building or portion of a building designed and equipped for the conduct of exercise and related activities utilizing weight control or muscle building equipment or other apparatus for the purpose of physical fitness, along with customary ancillary activities and facilities.

**Highest Adjacent Grade** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Highest Roof Plane** The roof plane having the highest ridge and having highest average height (exclusive of cupolas) or the flat roof that is higher than any pitched roof.

**Historic Structure** (for purposes of Floodplain Management Regulations) Any structure that meets any of the following criteria.

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior.
- 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior; or
  - (b) Directly by the Secretary of the Interior in states without approved programs.

**Home Business** A business conducted from an owner-occupied single-family dwelling unit that may include the use of accessory structures on the property, as specified under the provisions of this Ordinance.

**Home Occupation** Any use that is conducted entirely within a dwelling or within a building accessory to the residential use, that is clearly incidental and secondary to the

use as a dwelling, which does not change the character thereof, as specifically defined in this Ordinance.

**Home Produce** Agricultural products, preserves, art works, or any other goods or products produced or substantially produced or altered entirely as a home occupation on the premises or as the result of agricultural activities on the premises, other than forestry, accessory to the principal residential use.

**Homeowner Association** A corporation, trust, or unincorporated association, the members of which consist of the owners of the development units or lots within a development, which owns and manages all private interior ways and the land not occupied by residential, commercial or industrial structures and lots, including facilities and structures thereon, in perpetuity. An association that individual owners share common interest in common open space and/or facilities. The association is in charge of preserving, managing and maintaining the common open space and/or facilities and will enforce certain covenants and restrictions.

**Hospital** An institution providing organized inpatient diagnostic and nursing care for persons suffering from acute or chronic illness, injury or deformity requiring obstetrical or other care, including both inpatient and outpatient emergency services as may be required.

**Hotel** One or more buildings providing temporary lodging accommodations offered to the public on a daily rate for compensation. The building or buildings have an interior hall and lobby with access to each room from such interior hall or lobby, supervised by a person in charge at all hours. Accessory uses may include a restaurant, conference center facility, meeting rooms, health club and other customary uses.

**Hydric A Soils** Hydric A soils are those soils identified as Type A hydric soils or very poorly drained soils in the "High Intensity Soil Maps For New Hampshire," as amended, as published by the Society of Soil Scientists of Northern New England.

**Hydric B Soils** Hydric B soils are those soils identified as Type B hydric soils or poorly drained soils in the "High Intensity Soil Maps For New Hampshire," as amended, as published by the Society of Soil Scientists of Northern New England.

**Impervious or Impervious Surface** A material or surface that does not readily permit the infiltration of water. It shall also mean, where appropriate, a surface through which regulated substances cannot pass when spilled.

**Indirect Light** Light that has been reflected or has scattered off of other surfaces.

**In-House Dwelling Unit** A separate dwelling unit contained within an owner-occupied single-family residence on a conforming lot and having no more than one (1) bedroom nor a floor area greater than 650 square feet.

**Interior Lot** A lot in which the side lot lines do not abut a street.

**Junk** Any worn out, cast off or discarded articles or material ready for destruction or collected or stored for salvage or conversion to some use. Any article or material that is unaltered or unchanged and, without further reconditioning can be used for its original purpose as readily as when new, shall not be considered junk.

**Junk Yard** As defined in NH RSA 236:112, as amended.

**Lattice Tower** A type of mount with multiple legs and structural cross-bracing between the legs that is self supporting and free standing.

**Level of Service** Level of Service indicates the capacity per unit of demand for each public facility. It is an indicator of the extent or degree of service provided by a facility based upon and related to the operational characteristics of the facility.

**Level of Service, Adopted** The level of service established as an adequate public facility's standard for subdivision and site plan approval and the capital improvements program.

**Light Manufacturing** The manufacturing, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing or raw materials on a large scale.

**Light Trespass** The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

**Loading Space** An off-street space used exclusively for loading and unloading of goods and materials from one (1) vehicle.

**Lot** An area or parcel of land, or any part thereof, that can be legally developed under the terms of this Ordinance.

**Lot Depth** The mean horizontal distance between a front lot line and a rear lot line.

**Lot Frontage** The horizontal distance measured along a front lot line between the points of intersection of the side lot lines with the front lot line.

**Lot Line** The lines enclosing or bounding a lot.

**Lot of Record** A lot that is part of a subdivision plan approved by the Barrington Planning Board, recorded in the Strafford County Registry of Deeds and exempt from subsequent zoning changes pursuant to RSA 674:39, as amended, and/or a separate and distinct parcel of land described in a deed recorded in the Strafford County Registry of Deeds prior to September 12, 1972 (the date of the initial Barrington Zoning Ordinance.)

**Lot Width** The horizontal distance between the side lot lines as measured at the minimum front yard depth required by this Ordinance, and parallel to the street line.

**Lot Line, Front** The property line dividing a lot from a street right-of-way from which vehicular access is provided to the lot.

**Lot Line, Rear** The lot line opposite from the front lot line.

**Lot Line, Side** Any lot line that is not a front or rear lot line.

**Lowest Floor** (for purposes of Floodplain Management Regulations) The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non elevation design requirements of this Ordinance.

**Manufactured Housing** Any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Structures meeting this definition shall be constructed in accordance with the standards specified by the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (generally referred to as the HUD Code).

Manufactured housing as defined in this section shall not be construed to include pre-site built housing as defined in this Article.

**Mean Annual High Water Mark** The line from visible markings and changes in soils and vegetation from the prolonged presence of water which distinguishes between predominantly aquatic and terrestrial land.

**Mean Sea Level** The National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Medical or Dental Clinic** A building or portion of a building in which the primary use is the provision of health care services to patients or clients. Such services may include the following: medical, dental, psychiatric, psychological, chiropractic, dialysis, acupuncture, reflexology, mental health professional, physical and/or occupational therapy, related medical services, or a laboratory which provides bacteriological, biological, medical, x-ray, pathological and similar analytical or diagnostic services to doctors or dentists. No fabricating is conducted on the premises, except the custom fabrication of dentures or similar dental appliances. This definition excludes in-patient or overnight care, animal hospitals, veterinarians, or other similar services. The sale of merchandise is allowed only as an accessory use.

**Membership Club** A social, sports or fraternal association or organization used exclusively by members and their guests and not conducted as a gainful business.

**Modular Housing** (see Pre-Site Built Housing)

**Motel** One or more attached or detached buildings providing residential room accommodations intended primarily for sleeping that are rented out to the public on a daily rate, where each room has a separate entrance leading directly outside the building.

**Multifamily Structure (Housing)** A structure containing three or more dwelling units, or apartments, each of which shall contain separate living, sleeping, cooking, and bathroom facilities for the persons residing there. For example, triplexes (three-family dwellings) and quadruplexes (four-family dwellings) are considered multifamily structures.

**Museums** A public or private facility, including an aquarium, established for preserving and exhibiting artistic, historical, scientific, natural or man-made objects of interest designed to be used by members of the public for viewing, with or without an admission charge. Such activity may include, as an accessory use, the sale of memorabilia, crafts work and artwork, and the holding of meetings and social events.

**Nonconforming Structure** Any building, structure, or paved surface that contains a Dimensional Nonconformity.

**Nonconforming Use** The use of property for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.)

**Nursing home** A facility for the aged or chronically ill, providing bed-care and in-patient services for persons requiring regular medical attention, but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

**Office Use or Office Building** A place where the business of a commercial, industrial, service or professional organization is transacted, but not including retail sales, manufacturing, clinics, personal services, places of amusement or places of assembly.

**One hundred (100) Year Flood** See "base flood".

**Outdoor Lighting** The night time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

**Outdoor Storage** Storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

**Packaging and Delivery Services** The packaging and delivery of parcels as a retail service use. It shall not include the bulk storage of parcels on-site but may include the sale of ancillary goods typically used in the packaging and shipping of parcels.

**Parapet or Parapet Wall** The portion of a building wall elevated above the roof level.

**Parcel** A contiguous lot or tract of land owned and recorded as the property of the same persons or controlled by a single entity.

**Park or Playground** An Open Space improved with playground equipment or other active open space improvements. These may be surrounded by street frontages and building frontages, but this is not necessarily required.

**Parking Lot** Any area, not within a building or other structure, where motor vehicles may be stored for the purpose of temporary, daily or overnight off-street parking to include a motor vehicle display lot and/or a commercial parking lot.

**Parking Space** An off-street space for exclusive use as a parking stall for one (1) motor vehicle.

**Passive Open Space** Areas which, due to the presence of a particular natural or environmental setting, which may include conservation lands, can provide for both active and passive types of resource-based outdoor recreation activities that are less formalized or program-oriented than activity-based recreation. Resource-based outdoor recreation means and refers to activities requiring a natural condition that cannot easily be duplicated by man.

**Personal Services Establishment** An establishment engaged in the provision of frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, barber shop, beauty shop, dry cleaner, tailor, or other similar services.

**Porch** A roofed structure projecting from the front, side or rear wall of a building, either enclosed or open, not used as habitable living space.

**Pre-Site Built Housing** This type of housing that is built in a factory, but is constructed in accordance with the standards set forth in the town's building code applicable to site built homes and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Such housing shall not be construed to mean manufactured housing. Pre-site built dwelling units shall be considered to be a single-family dwelling under the provisions of this Ordinance.

**Principal Building Or Principal Structure** A building or structure or, where the context so indicates, a group of buildings or structures, in which the Principal Use of a lot or parcel is conducted. This shall include any buildings that are attached to the principal structure by a covered structure.

**Principal Dwelling** A dwelling unit that constitutes the Principal Building or Principal Structure on a lot or parcel.

**Principal Use** The main or primary purpose for which a structure or lot is designed, arranged or intended, or for which it may be used, occupied or maintained under this article. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this article shall be considered an accessory use.

**Professional Offices** The office of a member of a recognized profession maintained for the conduct of that profession. A profession is defined as an occupation requiring training in the liberal arts or sciences, or combination thereof, requiring advanced study in a specialized field, any occupation requiring licensing by the state and maintenance of professional standards applicable to the field.

**Public Right-of-Way** The portion of a public street dedicated to and accepted by the city as measured from property line to property line.

**Public Utility** Persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or land line telephone service to the general public. For the purpose of this Ordinance, commercial wireless telecommunication service facilities shall not be considered public utility uses, and are defined separately.

**Public Utility Structure** Any structure including a line, pipe, building, building, station, or facility used to deliver or provide a public utility to the general public.

**Recharge** Water that infiltrates into an aquifer, usually from overlying soils.

**Recreational Vehicle** Any building, structure, or vehicle designed and/or used for living or sleeping and/or recreational purposes and equipped with wheels to facilitate movement from place to place, and automobiles when used for living or sleeping purposes and including pickup truck coaches (campers), motor homes, boats, travel trailers, and camping trailers not meeting the specifications for manufactured housing. A recreational vehicle is not designed or permitted for use as a permanent dwelling. For the purposes of this Ordinance a recreational vehicle shall not be considered to be a dwelling unit.

For the purpose of the Floodplain Management Regulations recreational vehicles shall also be construed to have the following characteristics:

- 1) A vehicle that is built on a single chassis;
- 2) Contains 400 square feet or less when measured at the largest horizontal projection;
- 3) Is designed to be self propelled or permanently towable by a light duty truck; and
- 4) Is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**Regulated Substance** (for purposes of Groundwater Protection District) Petroleum, petroleum products, and substances listed under 40CFR 302, 7/1/90 edition, excluding the following substances: ammonia, sodium hypochlorite, sodium hydroxide, acetic acid, sulfuric acid, potassium, sodium potassium permanganate, and propane and other liquefied fuels that exist as gases at normal atmospheric temperature and pressure.

**Regulatory Floodway** (for purposes of Floodplain Management Regulations) The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.

**Repair Services** Repair and servicing of appliances, computers, electronic equipment, tools and other small machinery common to homes and businesses.

**Research and Development** A business that engages in research and development of innovative ideas and technology. Examples include research and development of computer software, information systems, communication systems, transportation, multi-media and video technology. Development and construction of prototypes may be associated with this use.

**Restaurant** An establishment where food and/or beverages are prepared, served, and consumed, and whose principal method of operation includes one or both of the following characteristics: (1) customers are normally provided with an individual menu and served their food and beverages by a restaurant employee at the same table or counter where the items are consumed; or (2) a cafeteria-type operation where food and beverages generally are consumed within the restaurant building.

**Restaurant, Drive-through** An establishment whose primary business is serving food to the public for consumption on or off the premises, and that provides all or part of these services by means of a drive-through window. A drive-through window is defined as an opening in the wall of a building or structure designed and intended to be used to provide for sales to and/or service to patrons who remain in their vehicles.

**Retail Uses (sales and services)** A business or activity having as its primary function the supply of merchandise or wares to the end consumer; or establishments engaged in the rental of goods at retail, or in providing a service(s) to individuals and households. This category excludes animal sales or service; building and garden materials, supplies, sales or rental; and motor vehicle and related equipment sales, leasing, rental, or repair.

**Retirement Housing** A facility for long-term residency exclusively by persons 60 years of age or older, that provides either independent living or assisted living arrangements, and that shall include, without limitation, common dining and social and recreational features, and special safety and convenience features designed for the needs of the elderly. The facility may also include the provision of services such as meal services, transportation, housekeeping, personal care, or health care. Such a facility shall not be construed to mean a nursing home, group home, or residential treatment center.

**Roof Line** The top edge of the roof or the top of the parapet, where the junction of the roof and the perimeter wall of the structure forms the top line of the building silhouette.

**Runoff** Precipitation, snow melt, or irrigation that flows over the land, eventually making its way to a surface water such as a stream, river, or pond.

**Screening** A visual barrier that blocks out a use on one (1) property from abutting properties. Screening shall consist of a landscaped area containing plant materials, walls and/or fences.

**Secondary Containment** A structure such as a double walled tank, a berm, or dike with an impervious surface that is adequate to hold at least 110% of the volume of the regulated-substances that will be stored there.

**Sediment** Solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

**Setback** An area lying between the furthest projection of a principal structure and the property line of the lot on which the structure is located. Where a yard abuts a street, the setback is the area lying between the abutting street right-of-way line and the furthest projection of a principal structure.

**Shoreline** The mean high water line of the body of water at the water's edge.

**Shoreline Frontage** The average of the actual natural navigable shoreline footage and a straight line drawn between property lines, both of which are measured at the reference line.

**Sign** A permanent or temporary device, structure, light, letter, word, two- or three-dimensional, object or copy, model, banner, streamer, pennant, display, insignia, emblem, trade flag, presentation by figures, designs, pictures, logos or colors visible to the public from outside a building, from a traveled way or otherwise. The purpose of a sign is to convey a message to the public, to advertise, direct, invite, announce, or draw attention to, directly or indirectly, a use conducted, goods, products services or facilities available, either on the lot or on any other premises. Includes any permanently installed or prominently situated merchandise. For the purpose of removal, signs shall also include all sign structures and appurtenances.

**Sign Area** The space, on the largest single face of a sign, within and including a perimeter which forms the outside shape of a sign. Where signs are established back to back the larger face shall be calculated for purposes of determining allowable area. The space of a sign having no such perimeter or border shall be computed by enclosing the entire copy area within the outline of either a parallelogram, triangle, circle or any other easily recognized geometric shape and then computing the area. Where a sign is of a three-dimensional, round or irregular shape, the largest cross section shall be used in a flat projection for the purpose of computing sign area.

**Sign, Abandoned** The cessation of the use of a sign as indicated by the visible or otherwise apparent intention of an owner to discontinue the use of a sign and/or structural framework; or the removal of the characteristic equipment or furnishings of the sign, without its replacement by similar equipment or furnishings; or the replacement of a nonconforming sign with a conforming sign.

**Sign, Animated** Any sign that includes action or motion, such as changing electronic sign or electronic message center. For purposes of this division, this term does not refer to flashing, changing or indexing.

**Sign, Awning** An "awning sign" is a sign painted on or attached flat or flush against the surface of the awning, but not extending above, below or beyond the awning or attached to the underside.

**Sign, Banner** A "Banner sign" is a temporary sign of lightweight material (paper, plastic or fabric) hung either with or without frames. A "Permanent Banner Sign" is a sign constructed of lightweight material (paper, plastic or fabric) attached by means of rigid frames to a pole in a permanent or semi-permanent fashion.

**Sign, Directional** A sign that is necessary for on-site public safety and convenience. Examples include signs located next to a driveway and reading "in," "out," "entrance," "parking," or "exit."

**Sign, Flashing** A flashing sign contains an intermittent light source or includes the illusion of intermittent light by means of animation or an externally mounted intermittent light source.

**Sign, Ground** A sign established on a freestanding frame, mast or pole and not attached to any building. Where such signs are established back to back, the larger face shall be calculated for the purposes of determining allowable area.

**Sign, Home Occupation** A sign used to draw attention to a home occupation or for noncommercial speech associated with a home occupation.

**Sign, Illuminated** Any sign that emanates light either by means of exposed tubing, electrical bulbs, fluorescent lights, neon tubes or lamps on its surface, or by means of illumination transmitted through the sign faces. Any decorative lighting that is used expressly for the purpose of advertisement shall be construed as a sign.

**Sign, Political** A sign advertising a candidate or issue to be voted upon on a specific election day, and that is attached to the ground by a stake or stakes, but which excludes any other sign defined as a portable sign.

**Sign, Real Estate** A temporary nonelectrical ground or wall sign that either: (1) advertises the on-site sale, rental or lease of a premises or a portion thereof (In such case signs must be removed within thirty (30) days after the sale, rental or lease); or (2) the off-site advertising of an open house.

**Sign, Roof** A sign established upon, against, or directly above a roof, or on the top of or above the parapet of a building.

**Single-Family Attached Dwelling** A building containing two or more attached dwelling units where each unit shares a common wall with at least one other dwelling unit. Each dwelling unit shall have a ground floor level but may be more than one story in height.

**Single-Family Detached Dwelling** A dwelling designed for occupancy by a single family that is not attached to any other dwelling by any means and is surrounded by open space or yards.

**Slope** The ratio of elevation change to horizontal distance, expressed as a percentage. Slope is computed by dividing the vertical distance by the horizontal distance and multiplying the ratio by one hundred.

**Special Exception** A use of a structure or lot, or any action upon a premises, that may be permitted upon application to the Zoning Board of Adjustment if in accordance with the provisions of this Ordinance.

**Special Flood Hazard Area** (for purposes of Floodplain Management Regulations) An area having flood, mudslide, and/or flood related erosion hazards, and shown on an FHBM or FIRM as zone A, A0, A1 30, AE, A99, AH, V0, V1 30, VE, V, M, or E.

**Start of Construction** (for purposes of Floodplain Management Regulations) Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

**Story** The portion of a building that is between one (1) floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story when its ceiling is six (6) or more feet above the finished grade. A cellar shall not be deemed to be a story. An attic shall not be a story if unfinished and without human occupancy.

**Story, Half** A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of the story.

**Stratified Drift Aquifer** A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water courses to wells.

**Stream** Areas of flowing water occurring for sufficient time to develop and maintain defined channels but may not flow during dry portions of the year. Includes but is not limited to all perennial and intermittent streams located on U.S. Geological Survey Maps.

**Street** A road, thoroughfare or way that affords the means of access to adjacent lots and is devoted to vehicular travel, and measured from property line to property line. It includes any street, avenue, road, lane, viaduct, boulevard, alley, highway or other way, whether public or private.

**Structure** (for purposes of Floodplain Management Regulations) For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**Structure** Anything constructed, installed, placed or erected, whether above or below grade. Unless otherwise stated in this Ordinance, signs, stonewalls, septic systems, driveways, parking lots, home propane and heating oil tanks, and fences shall not be construed as structures for purposes of setback requirements, but shall be so construed for all other purposes.

**Structure, Accessory** A detached structure, the use of which is customarily incidental and subordinate to that of the principal use, principal building or principal structure, and which is located on the same lot as that occupied by the principal use, principal building or principal structure.

**Subdivision** A "subdivision" means any activity defined in RSA 672:14.

**Substantial Completion of Development** For determining whether an approved subdivision or site plan is vested under the terms of RSA 674:39 the following conditions must be met. At least fifty percent (50%) of the total cost of all public and private improvements approved by the town must have been expended within four (4) years of the date of approval of said subdivision or site plan. In addition, a bond or surety for completion of all required public improvements, if required as a condition of approval, shall have been posted with the town.

**Substantial Damage** (for purposes of Floodplain Management Regulations) Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent (50%) of the market value of the structure before the damage occurred.

**Substantial Improvement** (for purposes of Floodplain Management Regulations) Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that

alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed.

**Substantially Different Use** A use which by reason of its normal operation would cause readily observable differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

**Surface Water** Streams, lakes, ponds, and tidal waters, including marshes, water courses and other bodies of water, natural or artificial.

**Tanning Salon** Any business that uses artificial lighting systems to produce a tan on an individual's body. This use specifically excludes spas, gymnasiums, and health clubs, where tanning is only one of a number of services offered to patrons.

**Tattoo Parlor** An establishment that offers as a service to the public, the placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, by means of the use of needles or other instruments designed to contact or puncture the skin, using ink or other substances that result in the permanent coloration of the skin.

**Tower** Any structure that is used primarily to support one tower, lattice towers, guyed towers, and monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular towers, alternate tower structures and the like.

**Townhouse** A single dwelling unit whose sidewalls are separated from other dwelling units by a fire wall or walls. Each unit in the row may be owned by a separate owner (condominiums).

**Toxic or Hazardous Material** Any substance or mixture with physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes acids and alkalis, and all substances defined as toxic or hazardous under applicable state or federal statutes, and also include such products as solvents and thinners in quantities greater than normal household use.

**Unimproved** Not developed with a principal-use structure.

**Upland Soils** Soils not present in any wetland area

**Use** The purpose for which a building, lot, sign or other structure is arranged, intended, designed, occupied or maintained.

**Use** The purpose or activity for which land or structures are utilized, occupied or maintained.

**Vernal Pool** A confined basin depression without a permanent above ground outlet that, at least in most years, holds water and for a minimum of two continuous months during the spring and/or summer; contains fairy shrimp and/or supports the breeding of wood frogs and/or mole salamanders; and is free of adult fish populations. Observation of breeding activity by obligate species is required to determine that a water body is a vernal pool.

**Veterinary Offices/Clinic** A facility where a veterinarian treats sick or injured animals, gives preventative care, as well as where medical and surgical care is given, or short-term hospitalization is provided. Use of an on-site kennel shall be in enclosed facilities and shall be limited to short-term boarding which is incidental to the extended treatment of patients.

**Water Surface Elevation** (for purposes of Floodplain Management Regulations) The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

**Wastewater Treatment System** Means any effluent disposal or treatment system that receives either sewage or other wastes, or both, including septic tank leach field systems, privies or dry pit toilets, and incinerator-type toilets such as gas-operated, electric, fossil-fueled or any combination thereof.

**Wetland Areas** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. In accordance with New Hampshire Department of Environmental Services and United States Army Corps of Engineers requirements, jurisdictional wetlands are to be identified and delineated using the 1987 Corps of Engineers Wetlands Delineation Manual. Jurisdictional wetlands are to be delineated by a New Hampshire certified wetland scientist or a New Hampshire certified soil scientist.

**Wetland Buffer** A naturally vegetated upland area adjacent to wetland or surface water. In this definition, “naturally vegetated” includes the following: uncut or undisturbed forest, minimally disturbed or managed forest, and abandoned pasture or fields.

**Wholesale Uses** An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. Such uses shall not typically include the processing, manufacturing, or assembling of raw materials or goods.

**Yard** A portion of a lot upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein.

**Yard, Front** A yard extending for the full width of the lot between the front line of the nearest building wall and the front lot line.

**Yard, Rear** A yard, unoccupied except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

**Yard, Side** A yard extending for the full length of a building between the nearest building wall and the side lot line.

## ARTICLE 17 - APPENDIX

TABLE 1 TABLE OF USES					
USE	General Residential (GR)	Neighborhood Residential (NR)	Village District (VD)	Regional Commercial (RC)	Highway Commercial District Overlay (HCO)
<b>RESIDENTIAL</b>					
Conservation subdivisions	P(5)	P(5)	(-)	(-)	P
Manufactured housing	P	P	P	P(8)	P
Multifamily housing	CP(6)	CP(6)	(-)	P(8)	P
Retirement housing	CP(6)	CP(6)	P(6)	P(8)	P
Single-family dwellings (attached)	P(7)	P(7)	P	P(8)	P
Single-family dwellings (detached)	P	P	P	P(8)	P
Two family dwellings	P	P	P	P(8)	P
<b>AGRICULTURAL</b>					
Agricultural uses	P	P	P	P	P
Farms	P	P	P	P	P
Keeping/boarding of horses	P	P	P	P	P
Orchards	P	P	P	P	P
<b>COMMERCIAL</b>					
Arts and crafts establishments	CP	CP	P	P	CP
Art studios	CP	CP	P	P	CP
Sale of automobile parts and supplies	(-)	(-)	(-)	P	(-)
Automated banking facility (ATM)	(-)	(-)	P	P	(-)
Banks	(-)	(-)	P	P	(-)
Billiard parlors	(-)	(-)	(-)	P	(-)
Bowling alleys	(-)	(-)	(-)	P	(-)
Business support services	(-)	(-)	P	P	CP
Business and professional offices	(-)	(-)	P	P	CP
Commercial recreation facilities	(-)	(-)	(-)	P	CP
Conference centers	(-)	(-)	P	P	(-)
Daycare facilities	CP	CP	P	P	CP
Drug store	(-)	(-)	P	P	(-)
Funeral homes	(-)	(-)	(-)	P	(-)
Gasoline service stations	(-)	(-)	(-)	P	(-)
Convenience stores w/gas pumps	(-)	(-)	(-)	P	(-)
Golf courses	CP	CP	(-)	(-)	(-)
Hardware stores	(-)	(-)	P	P	(-)
Health care facilities	(-)	(-)	P	P(3)	(-)
Health clubs	(-)	(-)	P	P	(-)
Home businesses	CP(9)	CP(9)	CP(9)	CP(9)	CP(9)
Home occupations	P(10)	P(10)	P(10)	P(10)	P(10)
Hospitals	(-)	(-)	(-)	P	(-)
Hotels	(-)	(-)	(-)	P	(-)
Inns	CP	CP	P	P	CP
Medical/dental clinics	(-)	(-)	P	P	CP
Mixed use developments	(-)	(-)	P(2)	P(2)	(-)
Motels	(-)	(-)	(-)	P	(-)
Movie theaters	(-)	(-)	P	P	(-)
Bed and breakfasts	CP	CP	P	P	CP

**TABLE 1  
TABLE OF USES**

<b>USE</b>	<b>General Residential (GR)</b>	<b>Neighborhood Residential (NR)</b>	<b>Village District (VD)</b>	<b>Regional Commercial (RC)</b>	<b>Highway Commercial District Overlay (HCO)</b>
Museums	(-)	(-)	P	P	(-)
Nursing homes	CP(3)	CP(3)	P(3)	P(3)	CP(3)
Packaging and delivery services	(-)	(-)	P	P	(-)
Personal services establishments	(-)	(-)	P	P	CP
Publishing and printing establishments	(-)	(-)	P	P	(-)
Repair services	(-)	(-)	P	P	CP
Restaurants	(-)	(-)	P	P	CP
Restaurants, Drive-through	(-)	(-)	(-)	P	-
Retail uses	(-)	(-)	P	P	CP
Service and body shops for autos and trucks	(-)	(-)	(-)	P	(-)
Veterinary offices/clinic	CP	CP	P	P	CP
Wireless communication facilities	P(4)	P(4)	-	P(4)	CP(4)
Landscape nurseries/greenhouses	CP	CP	(-)	P	CP
Fraternal or social organizations	CP	CP	P	P	CP
<b>INDUSTRIAL</b>					
Contractor's storage and equipment yards	(-)	(-)	(-)	P	(-)
Excavation operations	P(1)	P(1)	P(1)	P(1)	P(1)
Light manufacturing facilities	(-)	(-)	(-)	P	(-)
Machine shops	(-)	(-)	(-)	P	CP
Research and development facilities	(-)	(-)	(-)	P	CP
Sawmills	(-)	(-)	(-)	P	(-)
Truck terminals	(-)	(-)	(-)	P	(-)
Wholesale uses	(-)	(-)	(-)	P	(-)
Warehouse operations	(-)	(-)	(-)	P	(-)
<b>PUBLIC/INSTITUTIONAL</b>					
Churches	CP	CP	P	P	CP
Educational institutions	CP	CP	P	P	CP
Municipal buildings and uses	P	P	P	P	CP
Parks and playgrounds	CP	CP	P	P	CP
<b>ACCESSORY USES</b>					
Accessory apartment	(-)	(-)	P	(-)	P
Accessory uses	P	P	P	P	P
Farm/Produce stand	P(11)	P(11)	P	P	P
In-house dwelling unit	P	P	P	P	P
Private garages	P	P	P	P	P
Swimming pools	P	P	P	P	P

**TABLE 1  
TABLE OF USES**

<b>USE</b>	<b>General Residential (GR)</b>	<b>Neighborhood Residential (NR)</b>	<b>Village District (VD)</b>	<b>Regional Commercial (RC)</b>	<b>Highway Commercial District Overlay (HCO)</b>
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**FOOTNOTES:**

- (1) All excavation operations shall conform to the Performance Standards specified in Section 7.1 of this Ordinance, as well as the requirements specified in the town's Site Plan Review Regulations. The Planning Board may require an undisturbed and/or vegetated buffer of suitable size to be maintained between an excavation site and any adjoining properties if said properties would be adversely impacted by such an operation.
- (2) Provided that such use complies with Section 3.3 of this Ordinance as well as all other applicable regulations.
- (3) Such facilities may have no more than fifteen (15) patient/client beds.
- (4) Provided that such use complies with Article 10 of this Ordinance entitled Wireless Communication Facilities Overlay.
- (5) Provided that such use complies with Article 6 of this Ordinance entitled Conservation Subdivision Regulations.
- (6) No structure may contain more than eight (8) dwelling units.
- (7) Permitted within Conservation Subdivisions as specified in Article 6.
- (8) No residential structures are permitted within five hundred (500) feet of the edge of right-of-way for Route 125 and Route 4 for properties located in the RC District.
- (9) Provided that such use complies with Section 7.4 of this Ordinance entitled Home Businesses.
- (10) Provided that such use complies with Section 7.3 of this Ordinance entitled Home Occupations.
- (11) For the sale of agricultural products, or any other goods, which are produced substantially as a home occupation or from agricultural activities on the premises, other than forestry related activities, as an accessory use to a principal residential use.

**KEY:**

P – Permitted by Right  
 CP – Permitted if Conditional Use Permit is issued by Planning Board  
 P with (1) – Permitted with conditions specified in footnote  
 CP with (1) – Permitted if a Conditional Use Permit is issued by the Planning Board and must also comply with conditions specified in footnote  
 (–) The use is not permitted  
 Refer to Section 3.2 of this Ordinance for a more complete explanation of the key to this table.